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HON. JAMES MURDOCK - - - - MINISTER OF LABOUR

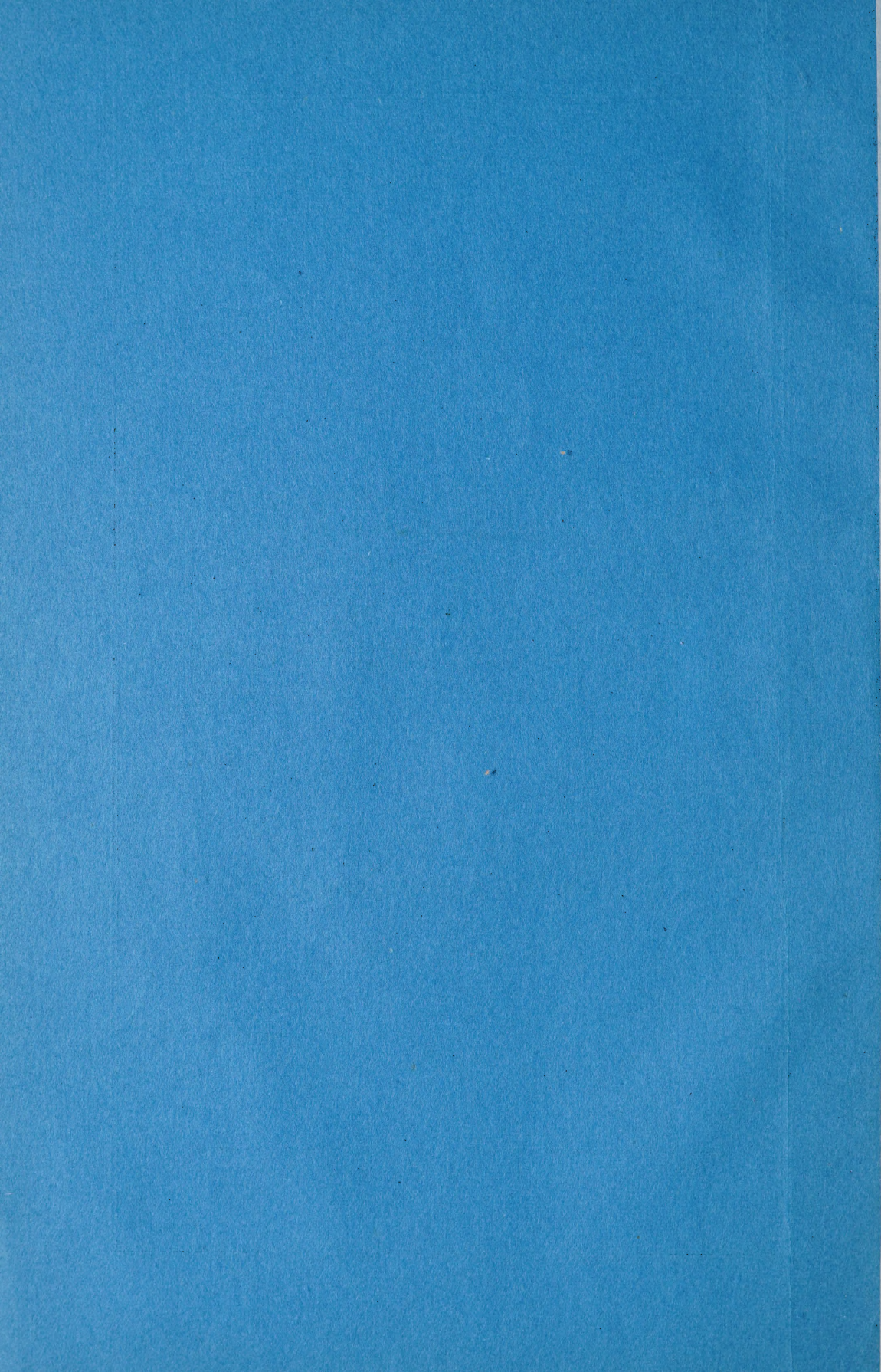
COMBINES INVESTIGATION ACT, 1923

INVESTIGATION
INTO ALLEGED COMBINE
AMONGST COAL DEALERS
AT WINNIPEG AND OTHER PLACES
IN WESTERN CANADA, 1924-1925

Report of Commissioner

—+—

February 28, 1925



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Department of Labour, Canada

HON. JAMES MURDOCK - - - - MINISTER OF LABOUR

COMBINES INVESTIGATION ACT, 1923

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OTTAWA: F. A. ACLAND, Printer to the King's Most Excellent Majesty, 1925

Department of Labour (English)

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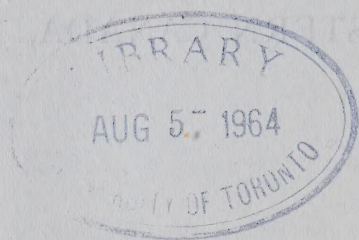
INVESTIGATION

INTO ALLEGED COMBINE

AMONGST COAL DEALERS

AT WINNIPEG AND OTHER PLACES

IN WESTERN CANADA



Report of the Commission

918143

February 28, 1965

OF THE COMMISSION

OTTAWA, March 16, 1925.

The Hon. JAMES MURDOCK,
Minister of Labour,
Ottawa.

SIR,—I have the honour to transmit to you the report of Mr. David Campbell, K.C., Commissioner appointed under the Combines Investigation Act, 1923, by P.C. 1188 to investigate an alleged combine amongst the coal dealers of Winnipeg and other places.

I am also transmitting:

- (a) Application of A. B. Hudson *et al* for an investigation into a combine alleged to exist amongst members of the Winnipeg Retail Coal Dealers' Association for the purpose of improperly maintaining retail coal prices;
- (b) Statutory declaration of the applicants;
- (c) Statutory declaration of Mr. A. B. Hudson;

and would direct attention to the following extract from the communication accompanying the application:—

It seems to me that there is more involved in this matter than merely the question of a combine among the retail coal dealers of Winnipeg. There appears to me to be a principle involved of the utmost importance. We have long been given to understand that the high cost of living results in no small degree from the heavy charges entailed by the operations of the middleman. Here we find in Hudson a middleman who has introduced methods which apparently go a long way in eliminating excessive costs and which can be applied to many another business, as well as the coal business. It seems to me that he is in the coal business what the cash and carry store has become to the retail provision trade. His success in being enabled to transact such a large volume of business last year, his first year, is an evidence that there is a large demand for the kind of economical service which he renders. One dollar or two dollars saved on every ton of coal is a mighty important thing to the householders of Winnipeg, and if similar savings could be brought about by these legitimate methods in other lines of business, very substantial benefit would accrue to the consumer. Men like Hudson should be encouraged. It is perhaps not unnatural that the old-established coal dealer will fight against the breaking down of his old-fashioned and expensive method of doing business. But the times demand it and if the old time coal dealer cannot learn to introduce economies, he will have to go out of business. In any event, he should not be permitted through a combination to maintain prices at higher standards and to eliminate competition by shutting off sources of supply. I believe that an investigation of this matter would be welcomed by the coal-consuming public of Winnipeg and that its result would be to substantially lower general retail prices of coal.

As the commissioner in his report has not set forth in detail the representations, made in the form of statutory declarations, which resulted in the institution of the inquiry, it is recommended that the documents above referred to be published with the report so that the public may be fully advised as to the allegations which were before you when the inquiry was authorized.

Yours truly,

HARRY HEREFORD,
Registrar,
Combines Investigation Act.

THE COMBINES INVESTIGATION ACT, 1923

WINNIPEG, October 14, 1924.

The Registrar of the Combines Investigation Act,
Parliament Buildings,
Ottawa.

The undersigned,—

Alex. Bateson Hudson, 979 Ashburn street, coal merchant;
Charles Anson Courtney, 296 Balmoral street, coal merchant;
William Ralph Courtney, 296 Balmoral street, coal merchant;
Eugene Ward Gregory, 1087 Ashburn street, nurseryman;
Horace Lewis Hamilton, 1105 Ashburn street, gardener;
William Percy Toyne, 1065 Strathcona street, book-keeper;

all of the city of Winnipeg, in the province of Manitoba, do hereby declare:—

(1) That each of us, the undersigned, is a British subject, resident in the city of Winnipeg, in the province of Manitoba, and is of the full age of twenty-one years.

(2) We are of the opinion that a combine exists among the members of the Winnipeg Retail Coal Dealers' Association.

(3) Our said opinion is based partly upon the facts and matters set out in the statutory declaration of Alex. Bateson Hudson, bearing even date herewith. We have read this statutory declaration and we are of the opinion that the contents of same are true and correct. Our said opinion is also based in part upon facts within our own knowledge. All or most of us are connected with, or more or less in touch with the retail coal business in Winnipeg. Some of us have personal knowledge which bears out the statements contained in said statutory declaration of Alex. Bateson Hudson. None of us have any information which is in conflict with the contents of said statutory declaration.

(4) We hereby make application for an investigation of such combine under the provisions of "The Combines Investigation Act," 1923.

(Signed) A. B. HUDSON.

" C. A. COURTNEY.

" W. R. COURTNEY.

" E. W. GREGORY,

" H. L. HAMILTON.

" WM. P. TOYNE.

Witness as to all signatures:

(Signed) C. A. DICK.

THE COMBINES INVESTIGATION ACT, 1923

IN THE MATTER OF an alleged combine existing among members of Winnipeg Retail Coal Dealers' Association;

AND IN THE MATTER of an application to the Registrar of the Combines Investigation Act for an investigation of such alleged combine.

Alex. Bateson Hudson, 979 Ashburn street, Coal Merchant;
 Charles Anson Courtney, 296 Balmoral street, Coal Merchant;
 William Ralph Courtney, 296 Balmoral street, Coal Merchant;
 Eugene Ward Gregory, 1087 Ashburn street, Nurseryman;
 Horace Lewis Hamilton, 1105 Ashburn street, Gardener;
 William Percy Toyne, 1065 Strathcona street, Book-keeper;

all of the city of Winnipeg, in the province of Manitoba, do hereby solemnly declare:—

(1) That we are the applicants named in an application for an investigation of combine alleged to exist among the members of the Winnipeg Retail Coal Dealers' Association, which said application is signed by us, and bears even date herewith.

(2) Our correct names, addresses and occupations are as set out above.

(3) We have authorized Thomas J. Murray, K.C., of 100 Victory Building, 333 Main street, Winnipeg, to represent us for the purpose of receiving any communication to be made pursuant to the said Act.

(4) In our belief the said combine exists among the members of the Winnipeg Retail Coal Dealers' Association. The office of said association is at 305 Royal Bank Building, Portage avenue, Winnipeg, and we are informed that the secretary of said association is Mr. A. E. Burns. We are unable to furnish the names of the members of said association. We believe, however, that said association comprises within its membership a very large proportion of the retail coal dealers in Winnipeg.

(5) We believe said combine exists, and is operated for the purpose of maintaining the retail prices of coal on a higher scale than would or could be maintained if such combine did not exist. For example, the price of Drumheller Lump, according to the scale maintained by said combine at present, is approximately \$13 per ton. The same coal is sold by dealers who are not in such combine at \$11 per ton. We see no reason why a very large part, if not all, of the users of coal in Winnipeg should not be supplied with their requirements in the matter of Drumheller Lump at prices in the neighbourhood of \$11 per ton. We believe they can be so supplied, and we believe that but for said combine, the prevailing price for Drumheller Lump in Winnipeg to-day would be \$11 per ton. We believe, therefore, that the consuming public of Winnipeg is being called upon to pay \$2 more per ton for Drumheller Lump than it would have to pay if such combine were not in existence, and the same principle applies to all other coal now handled by retail in Winnipeg. A corresponding decline in the present prevailing prices would, in our opinion, take place if such combine did not exist.

(6) We are informed, and we believe that there was used in Winnipeg last season over fifty thousand (50,000) tons of Souris coal, and over three hundred thousand (300,000) tons of Drumheller coal. We believe that if such combine did not exist, the Winnipeg consumer would benefit to the extent of between \$300,000 and \$500,000 per year.

And we, and each of us, make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of "The Canada Evidence Act".

Severally declared before me
at the city of Winnipeg,
in the province of Mani-
toba, this 14th day of
October, 1924. }

A. B. HUDSON,
C. A. COURTNEY,
W. R. COURTNEY,
E. W. GREGORY,
H. L. HAMILTON,
WM. P. TOYNE.

(Signed) C. DICK,
A Commissioner in B. R., etc.

CANADA
PROVINCE OF MANITOBA
To Wit:

IN THE MATTER of a combine which is alleged
to exist among members of the Winnipeg
Retail Coal Dealers' Association, which com-
bine is believed to operate to the detriment
of or against the interests of the public; and
IN THE MATTER of an application by Alex. Bate-
son Hudson and others, of Winnipeg, for an
investigation of such alleged combine.

I, Alex. Bateson Hudson, of the City of Winnipeg, in the province of Manitoba, coal dealer, do hereby declare:—

1. I am the Alex. Bateson Hudson above named, and I am one of the applicants named in the above mentioned application for an investigation of the said alleged combine, and I have a personal knowledge of the matters herein deposed to.

2. I have been engaged in the fuel business in various capacities and at various places in Western Canada for more than fifteen years past. In the season of 1921-22 I was employed as yard manager by the Eureka Coal Company at Winnipeg. In the season of 1922-23, in partnership with one Tolton, I carried on a fuel business in Winnipeg. In the fall of 1923 I proceeded to engage in the fuel business on my own account. I entered into a contract with the Canada Coal Company, through its Winnipeg office, for the supply to me of a car per day of Drumheller Lump. At that time, the Canada Coal Company acted as representative of the Reliance Coal Company. Also about the same time I entered into a contract with the representative of the Bienfait Coal Company of Saskatchewan to supply me with a car per day of Souris coal. I was thus assured of two cars per day during the busy fuel season. In addition, I bought coal through various other channels. Generally speaking, I had no difficulty in getting all necessary supplies throughout the season.

3. Said Drumheller coal cost me \$4.70, f.o.b. mine and \$4.70 freight, or \$9.40 f.o.b. Winnipeg. I paid 80 cents per ton for delivery, so that the cost to me (exclusive of overhead) for laying down a ton of Drumheller coal in the consumer's basement was \$10.20. My contract with the Bienfait Company provided for payment of \$2 a ton f.o.b. mine and \$2.30 freight, or \$4.30 f.o.b. Winnipeg. After paying 80 cents delivery charges, the cost of delivering a ton of Souris coal in the basement of the consumer was (exclusive of overhead) \$5.10.

4. I decided that I could sell the Drumheller coal at \$11.75 and the Souris coal at \$6.50, and still have a reasonable profit. My gross profit on the Drumheller coal would thus be \$1.55 a ton and on the Souris coal \$1.40. My overhead worked out at about 75 cents per ton, made up of 40 cents to 50 cents per

ton shrinkage owing to the cars not weighing out, 15 cents advertising and 10 cents per ton telephone and office help. This left me about 75 cents per ton net profit. I handled about 10,000 tons last season at the prices above mentioned, and after the season's business was closed, all my accounts and expenses paid, and after having deducted all my living expenses, I found that I had \$2,700 to the good.

5. Throughout the season I advertised my Drumheller coal at \$11.75 and my Souris coal at \$6.50. The price generally prevailing among the great majority of the other coal dealers in Winnipeg during the last season was \$13 to \$13.50 for Drumheller and \$7.50 for Souris. After my early advertisements appeared, I was requested by the Winnipeg Retail Coal Dealers' Association, through its secretary, to attend a meeting of that organization and to enter into or sign an agreement binding me to charge the prices which were either the same or similar to the said prices generally prevailing. I was assured that if I would do this I would be placed on the list of legitimate dealers and I would be assured of supplies; at the same time, I was also assured that if I failed to do as requested the Association would see that I did not get very much supplies. This happened about a week after I got started and would be approximately the 25th of November, 1923. I advised the Association, through its secretary, that I would not attend the meeting, that I would have nothing to do with the Association, and that as I was unloading from the cars and was selling for cash I felt quite justified in the course I was following. I proceeded to carry on my business along the lines in which I had started. Somewhere about Christmas I was informed by a representative of one of the companies from whom I was then securing coal that he was having a lot of trouble through supplying me with coal as a consequence of some of his other customers declining to purchase from him because he was supplying me. I assured him that I was willing to take off his hands all the coal which other customers declined to take because I was being supplied and in this way there was delivered to me and I sold during the last season quite a considerable quantity of extra coal. Later, similar representations were made to me by one of the other companies which was supplying me. Both of these parties informed me that their troubles arose out of the fact that I was selling at lower prices than the other coal dealers. As a consequence of these objections raised by other coal dealers in Winnipeg, there was some interruption of my supplies last season. Steps were taken to secure supplies in an indirect way without it being apparent where my coal was coming from or through whom it was being supplied. In this way, I was able to secure last season all the coal I required.

6. My real difficulties commenced, however, when I proceeded to make arrangements for my supplies for this season. In the spring of 1924 I placed an order with one of the dealers in Winnipeg for 1,000 tons of Carbon Lump at \$3.75 per ton. During the winter of 1923-24 I had endeavoured to obtain supplies from one of the connections of this company. I was then assured that, while this connection had coal, it was afraid to supply me because if it did so the other coal dealers would cease to buy from it. Later, in that season, however, I did succeed in securing some coal from this connection at a time when it was getting more than it could handle. The order for the thousand tons of Carbon Lump placed as above was neither accepted or refused; it hung fire for several months and I was finally told not long ago that, while this company would like to do business with me, and would like to have this particular order, it did not dare sell me the coal because of the attitude taken by its other customers in Winnipeg.

7. On August 22, 1924, after having carried on considerable negotiations with the Canada Coal Company, during which negotiations it was made quite clear that the said Canada Coal Company was anxious to do business with me, I gave it an order through Mr. Harris, the president of the company, for 3,000 tons of Craig lump at \$4.70 per ton f.o.b. mines. This order was accepted and later I was advised by Mr. Harris that the order had been recognized and accepted by the Craig Mine through its representatives, the Western Coal Company. Later, at the request of the Western Coal Company, I gave shipping dates and these were confirmed in a letter from Mr. Harris dated September 11. Thus everything was completed to entitle me to delivery. This mine has been steadily working; it has not been involved in the strike, and it has been and is delivering coal to other dealers in Winnipeg. In all, I have received to date only about three cars, although my requisitions have called for very considerably heavier shipments. I cannot get further deliveries and am satisfied that this is as a consequence of pressure brought to bear on the Craig Mine and its representatives, the Western Coal Company and the Canada Coal Company, by other coal dealers in Winnipeg.

8. I had a somewhat similar experience with the Grain Growers Coal Department. I ordered and received several cars of coal from them in August, 1924. Ultimately, I was told by them that they could supply me with no more coal, that the Excelsior Company had written them that in the event of the Grain Growers supplying me with any more coal, the Grain Growers would get no more coal from the Excelsior Company for any of their country customers. I have since been unable to get any coal from the Grain Growers Company. I have also learned through the Grain Growers that they got word from another firm of dealers in Winnipeg from which they were counting on supplies that if the Grain Growers delivered me any further coal this firm of dealers would cease to supply the Grain Growers.

9. About two weeks ago, I called up the sales representative of one of the companies in Winnipeg through which I had previously received coal and who, I have had reason to believe, are friendly towards me. I endeavoured to get a spare car of coal and received the reply: "You are taboo, Hudson. The mines at Drumheller have decided to put you out of business and you might as well quit now as later on." Similar information came to me through the representative of another firm in Winnipeg through whom I had made purchases. The information conveyed to me in this latter case was based upon the contents of a letter written to this representative by the head of this company.

10. I have been very active in my efforts to ensure supplies of coal for this coming season. I am satisfied that if I could get sufficient supplies I could handle 20,000 tons of coal this year and I could do so at prices lower than those at which I sold coal last winter. However, I find that just as soon as I succeed in making any new connection, that connection is cut off, but I believe that in every case it is caused by pressure brought to bear at the instance of the coal dealers in Winnipeg who are in competition with me.

11. In the month of August, the fourth annual convention of the Western Canada Fuel Association was held at Brandon. I have been informed by one of the members of said association who was present at this Brandon meeting that a large portion of the time of the convention was occupied in discussing my case, and that the almost, if not quite, unanimous feeling of the members present was that any mine found supplying me with coal should be boycotted. I have further been informed by the same member that at or as a consequence of this convention, a member of the association was delegated to record and submit to the association the numbers of all cars of coal placed on my siding.

I have further been informed by the same member that still another member of the association has been able to obtain the co-operation of friends of his in the service of the Canadian Pacific Railway and the Canadian National Railway in securing through those car numbers the names of the shippers of my cars and the place of shipment. I believe that all this information has been obtained for the sole purpose of locating and bringing pressure to bear upon the mines and companies who have been shipping coal to me, and that such pressure has been brought upon them and that much, if not all, of the difficulties I have experienced recently in getting coal have resulted from such pressure.

12. Recently, a member of the association told me that he was afraid the association was going to put me out of business and that he did not know how I was going to stand up against the plans they had made for putting me out.

13. I recently had a conversation with the representative of a retail coal business which in the past has carried on along lines similar to my own, and has sold at charges lower than the charges generally prevailing. This party was considering his plans for the season and was wondering whether he should follow my method of lower prices or should endeavour to carry on at the scale of prices generally prevailing. He told me that he was afraid that if he followed my example in continuing to sell at the lower prices he would be put out of business. He said he had been told by the members of the association that if he went in with them they would stand by him and see that he got supplies, but that if he did not do so and attempted to work along my lines, they would put him out of business.

14. At the present time I am selling Drumheller coal at \$11 per ton, or in three-ton lots at \$10.75 per ton. The present average price of the great majority of the other dealers is in the neighbourhood of \$13. Present costs, according to my information, are \$4.10 f.o.b. mine, freight \$4.70, or a total of \$8.80 f.o.b. Winnipeg. Cost of delivery per ton to the consumer is 80 cents, thus bringing the total cost laid down in the consumer's basement (exclusive of overhead) of \$9.60 per ton. I am thus left a margin of \$1.40 when I sell at \$11 per ton and I say that this is a sufficient margin to enable me to pay all overhead costs and still have a reasonable profit left.

15. In the spring of 1922, I purchased the coal business of one Despatis, a retail dealer who had been carrying on business in St. Boniface. I found in his office a document headed "Price List" and dated September 1, 1923. On this price list, Drumheller or Carbon Lump is quoted at \$13.50 per ton and Souris at \$7.50. I was informed by Despatis that he was a member of the association, that this price list had been received by him from the office of the association and that it had come to him as a member. He told me further that if a man did not maintain the prices set out in the price list issued by the association he was blacklisted and the wholesalers forbidden to sell to him.

16. I believe there is a combination in existence among the members of Winnipeg Retail Coal Dealers' Association to maintain the retail prices of coal at the standards which now maintain among them, and in particular, to maintain the price of Drumheller Lump at approximately \$13 per ton. I also believe that one of the methods used by said members of making this combination effective is to cut off the supplies from and to put out of business any coal dealer who will not maintain the said standard of prices. In particular, I believe that the coal dealers who are in this combination are at present engaged in a movement to cut off my coal supplies and to put me out of business, and that the sole reason for this is my unwillingness to co-operate with them in maintaining their scale of charges and my persistence in selling my coal at prices substantially lower than theirs.

17. No other reason than that outlined exists which could form any possible justification or excuse for the cutting off of my supplies. I have accepted all cars consigned to me and have paid for such cars delivered in cash. I do not ask any shipper to extend me credit.

18. I am satisfied that if I would become a member of Winnipeg Retail Coal Dealers' Association and would agree to maintain and would, in fact, maintain the scale of charges now prevailing among the members of that association, I would have no further difficulty in getting all the supplies of coal which I may require.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the "Canada Evidence Act".

Declared before me at the city of Winnipeg,
in the province of Manitoba, this 14th day
of October, A.D. 1924.

(Sgd.) C. DICK,
Commissioner in B. R., etc.

(Sgd.) A. B. HUDSON.

REPORT OF COMMISSIONER

Registrar,
Combines Investigation Act, 1923,
Department of Labour,
Ottawa, Canada.

SIR,—Your commissioner appointed under the Combines Investigation Act, 1923, to investigate the alleged combine of coal dealers at Winnipeg and other points in Western Canada, begs leave to report as follows:

The scope of the investigation included the following corporations, firms, associations and individuals who are retail dealers, wholesale dealers, producers of coal and associations thereof, located at Winnipeg and Brandon, Man.; Saskatoon, Saskatchewan; and Edmonton, Calgary and Drumheller, Alberta:—

Canada Coal Company
Bowman-Thayer Company
David Bowman Coal and Supply Company
Halliday Brothers, Limited
United Grain Growers, Limited
Great West Coal Company
Diamond Coal Company
Blanchard Coal Company
Capital Coal Company, Limited
Douglas Fuel Company, Limited
T. D. Robinson & Sons, Limited
Winnipeg Supply and Fuel Company, Limited
David Swail Company, Limited
Western Coal Company
Max Mains Coal Company
Thomas Jackson & Sons
City Coal Company, Limited
J. G. Hargrave Company, Limited
Harstone Coal Company, Limited
D. E. Adams Coal Company, Limited
Arctic Ice Company, Limited
Arthur Fuel and Supply Company, Limited
Banning Fuel Company
E. V. Campion & Company
Canadian Coal Sales Company, Limited
T. P. Carver & Son
Fort Rouge Coal Company, Limited
John Gunn & Sons Limited
King Coal Limited
Alex. McCullough & Sons Limited
T. W. McColm
McCracken Brothers
J. C. McNabb & Son Limited
Osler, Hammond & Nanton
Palace Coal and Dray Company
Rodin Fuel Company, Limited

Swail Brothers
 Windatt Coal Company, Limited
 Winnipeg Coal Company, Limited
 D. D. Wood & Sons, Limited
 Great West Coal Company, Limited, Brandon, Man.
 The McLaws Company, Limited, Calgary, Alberta
 Western Canada Fuel Association, Brandon, Man.
 Western Fuel Company, Saskatoon, Sask.
 Naylor and Hessleton, Calgary, Alberta.
 United Collieries, Alix, Alberta
 Rosebank Coal Company, Limited, Alix, Alberta
 Superior Collieries, Edmonton, Alberta
 Bush Mine Coal Company, Limited, Edmonton, Alberta
 Ideal Coal Company, Limited, Wayne, Alberta.
 Souris Coal Distributors, Limited, Winnipeg, Man., and other cities
 Western Retail Lumbermen's Association, Winnipeg.
 Coal Sellers Company, Limited, Winnipeg, Man., and other places
 Drumheller Coal Agencies, Ltd., Drumheller, Alberta
 Reliance Coal Company, Limited, Calgary, Alberta
 W. B. Doyle Limited, Saskatoon, Sask.

Two of the complainants or applicants, Mr. A. B. Hudson and Mr. C. A. Courtney, are retail coal dealers in the city of Winnipeg. The other four reside at Winnipeg, but have no personal knowledge of the facts and circumstances which it was alleged show the existence of a combine.

Briefly, they allege that a combine exists among some or all of the above named corporations, firms, associations or individuals whereby the prices of domestic coals to the consumers at Winnipeg are enhanced to the amount of from \$300,000 to \$500,000 per year in excess of what was a fair cost, and to this extent was an injury or detriment to the public.

Upon hearing the evidence in chief of the two principal complainants, a very strong *prima facie* case was made out, and it appeared that other firms, corporations and associations than those originally named were implicated. I therefore felt it my duty to recommend to you the inclusion of those which were embodied in Orders in Council 1987 and 2094.

The evidence of Mr. Hudson sets up many facts which pointed strongly to the existence of a combine, and documentary evidence produced early in the proceedings apparently corroborated some of his statements and emphasized many of his contentions. Mr. Courtney produced a telegram and letter, exhibits 37 and 38, which seemed to fully corroborate his testimony and point strongly to the existence of a combine. (See Appendix A.)

They were very emphatic in their declarations that they could, and indeed had been handling coal profitably and successfully on a margin of about \$1.50 per ton between cost and sale prices, and that their methods clearly demonstrated that the methods of long-established dealers were cumbersome, expensive and antiquated and were responsible for the hundreds of thousands of dollars in excessive costs to the coal consumers of Winnipeg, and contended that these conditions could only be maintained and perpetuated by an effective combine, and that such a combine existed and brought within its operations wholesale dealers and producers.

The complainants urged that an investigation of the conduct and methods of retail coal dealers would disclose absurdly needless yard equipment and facilities, and in fact a great deal of which was not actually being used. They contended that the smaller dealers with modern methods of delivering direct from the car to the consumer and upon a strictly cash basis, could operate on a margin on which the larger dealers with their heavy overhead expenses could

not possibly exist. They urgently contended that the carrying of reserve stocks of coal, with heavy incidental expense to the dealer, was not necessary nowadays, in view of railway facilities and accommodation.

Having regard to these urgent and emphatic representations, and realizing there is a current belief in many quarters that a combine exists which maintains excessive prices on coal, it seemed quite clear that any investigation that should be made, should be sufficiently comprehensive and searching to enable one to determine beyond possible doubt the true state of affairs.

From the beginning and throughout the whole proceedings, one of the most contested points was that of carrying a reserve stock of coal. Plainly it means a considerable expense. Is it a necessary expense in the interests of the public? It was strongly suggested by both Mr. Hudson and Mr. Courtney that very little if any reserve stocks were actually carried. If this were true, then the alleged need was merely an excuse for prices higher than were necessary. But whatever the large majority of coal dealers in Western Canada were actually doing in this regard might fairly be taken as some evidence of its necessity. It would be difficult to imagine that thousands of sensible men engaged in any business would needlessly saddle themselves with an expense which was totally unnecessary to their business and which could never result in any profit, but on the contrary always tended toward loss and expense besides an investment in suitable sheds for keeping the coal to the best advantage. A questionnaire was therefore prepared and sent out to some eight hundred and fifty dealers in country towns and villages of Alberta, Saskatchewan, and Manitoba, and the returns are enumerated in the proceedings as exhibits No. 174 and 175.

Grain companies operating elevators throughout these provinces, as well as lumber supply companies, almost invariably engage in the coal trade in all towns and villages where they operate. Returns from several hundred of these coal depots were also obtained from these companies and are included in exhibits No. 180 to 194 inclusive.

Evidence was taken at sittings held in Winnipeg, Edmonton, Calgary, Drumheller, Saskatoon and Regina, at which a total number of 106 witnesses testified. In addition to this a large mass of documentary evidence was produced and the financial and trading accounts of Winnipeg dealers were produced and examined, and an inspection was made of some of the yards and equipment and of the methods employed in the handling of coal.

The facts and circumstances which the applicants contended shew the existence of a combine are set out in their statutory declarations which accompanied their application, and may be stated as follows:

1. The retail price of Drumheller lump coal at Winnipeg at the date of their application, October 14, 1924, was approximately \$13 per ton by dealers who belonged to the combine or complied with its mandates; and \$11 per ton by other dealers, and that the price of this coal was then \$4.10 f.o.b. the mine.

2. A contract entered into by the Canada Coal Company, Limited and Mr. Hudson in December, 1923, for the delivery during the season, of a large quantity of Hygrade Drumheller lump coal was interfered with, but he escaped serious embarrassment by reason of an overstocked market due to the mild season.

3. Supplies of Souris coal were interfered with and restricted during last season and this.

4. Mr. Hudson contended that last season he had maintained a spread between the costs of his coals f.o.b. Winnipeg and his selling prices of \$1.40 to \$1.55 per ton, which was ample to meet his costs of handling, advertising, all overhead expenses, shrinkage and degradation, and leave him a net profit of 75 cents per ton.

5. He represented that he had handled 10,000 tons during last season, and that after paying all expenses, wages, etc., and meeting his own living expenses, he had net profits for himself amounting to \$2,700.

6. He says he was requested to join the Winnipeg Retail Coal Dealers' Association and thereby to bind himself to maintain the selling prices fixed by the Association, and he would be assured of an adequate supply of coal, otherwise his supplies would be curtailed; that he refused to join the Association and maintain its prices and that his supplies were therefore interfered with.

7. During the latter part of last season Mr. Hudson contends that he developed a market for Carbon coal and was assured that if he did so he should have an adequate supply of that coal for this season. But an order placed last spring with the selling agents for this coal for 1,000 tons for delivery this season was interfered with by the combine to such an extent that none of this coal was supplied.

8. In August, 1924, Mr. Hudson made a contract with the Canada Coal Company, Limited, and the Western Fuel Company for 3,000 tons of Craig Drumheller lump coal for delivery during the season at \$4.70 per ton f.o.b. the mine. Only three or four cars were shipped and no further shipments were made and Mr. Hudson contends this was due to the pressure brought to bear by the Western Canada Fuel Association, and the Retail Dealers Association of Winnipeg.

9. In the early part of this season Mr. Hudson was receiving some Excel-sior coal from the United Grain Growers, but this supply was discontinued by reason of threats to shut off the Grain Growers supplies of coal.

10. Mr. Hudson represented that a systematic and effectual boycott against him was maintained in the Drumheller district.

11. Mr. Hudson alleged that from the information he had received it was clear that the Western Canada Fuel Association was determined to destroy his business; that the greater part of the time of the convention of that association held in Brandon last August was devoted to finding ways and means to effectually do this.

12. But for the existence of a combine the coal consumers of Winnipeg would benefit by an amount of between \$300,000 and \$500,000 per year.

13. Mr. Courtney, apart from accepting and approving the allegations of Mr. Hudson as set out in his statutory declaration, stated in his evidence in chief that in November, 1923, he had purchased a supply of Rosemount (Drumheller lump) coal at \$4.20 per ton f.o.b. the mine, and that by the interference of certain selling agents of the mine, and the mine operators' association, his shipments were stopped and he was then obliged to make a new contract for this same coal with another concern at \$4.75 per ton and that this resulted in a loss to him of 55 cents per ton or \$1,500 in the aggregate, all because he failed to maintain the regular selling prices for coal in Winnipeg. He further stated that this incident was his reason for making his application for this investigation.

1. Cost and Selling Prices of Drumheller Lump Coal, October 14, 1924.

Mr. Hudson states in his declaration: "At the present time I am selling Drumheller coal at \$11 per ton, or in three-ton lots at \$10.75 per ton. The present average price of the other dealers is in the neighbourhood of \$13. Present costs, according to my information, are \$4.10 f.o.b. mine, freight \$4.70, or a total of \$8.80 f.o.b. Winnipeg." In support of this he testified that he had at that time a contract for Rosemount coal at \$4.10 per ton f.o.b. the mine. Upon production of this so-called contract, exhibit 172, it turned out to be a memorandum of an offer made to A. E. Lockerber, a selling agent of Drumheller, to purchase the coal at that price, and he finally admitted that no acceptance was ever given to the offer, and no shipments were ever made on it. I quote the production in full:—

September 28, 1924.

Ship to Cariboo Lake Lbr. Co. C.P.R. Siding L 50 via Wpg. Terms (blank).
When advised.

I will arrange money at Bank of Montreal, Drumheller, to cover all bills of lading on coal arranged to purchase.

A. B. HUDSON.

I, Mr. A. B. Hudson, agree to take the output of the Rosemount Furnace Lump at four $\frac{1}{100}$ dollars per ton cash payments screened over $1\frac{1}{2}$ screen and all bone picked out.

The only contract for the delivery of Drumheller coal which Mr. Hudson had at the time he made his application for this investigation was with the Canadian Coal Company and the Western Fuel Company for 3,000 tons of Craig coal at \$4.70 per ton f.o.b. the mine, which I shall refer to later on. He had never received the slightest intimation that his offer for the Rosemount coal at \$4.10 would be accepted. Moreover, the miners' strike in the Drumheller field had not yet ended, and what few mines were working were totally unable to meet the demand for coal and there was no occasion at that time for their accepting any lower prices than those of the previous year.

Mr. Hudson's contract for the Craig coal, it is true, was not carried out, and although only a few cars had been received and shipments were not coming forward, he had no definite information at that time that the contract would not be carried out at least as rapidly as the orders could be filled.

Upon examining the invoices for coal purchased by Mr. Hudson between the 1st of August and October 14, 1924, I find the following purchases of Drumheller coal:—

Six cars of Excelsior at \$4.70 per ton.

Four cars of Craig at \$4.70 per ton.

Two cars of Sunshine at \$4.70 per ton.

One car of Sunshine at \$4.50 per ton.

Two cars of Craig at \$4.55 per ton.

The Craig coal purchased at \$4.55 per ton was stated by Mr. Merkeley of the Western Fuel Company to have been two cars of somewhat inferior coal.

It is quite clear that he had no substantial grounds whatever for declaring that the price of Drumheller coal at the mine was \$4.10 per ton, nor had he any reason to suppose that coal during the early part of that season, at all events, even if the strike were settled, would go below the prices that he was now paying, which, as pointed out above, was 60 cents per ton above what he declared coal could be purchased for at the mine and upon which he based calculations of cost plus delivery of \$9.60 per ton for coal delivered to the customer at \$11 per ton, leaving him a profit of \$1.40.

Apart from all other considerations at the moment he made the declaration, the only substantial ground for his calculations upon the facts as they stood and were known to him was that his coal would have had to be delivered at \$11.60 per ton in order to give him the margin of \$1.40 which he claimed was sufficient for his purposes.

While the price of Drumheller lump coal at Winnipeg prior to the settlement of the strike about the 21st of October was, generally speaking, \$13 per ton, there was very little of it to be had. The strike having begun in April, 1924, all the stocks of Drumheller coal were exhausted before September, and the few mines that were operating were unable to supply 10 per cent of the demand for Drumheller coal after the 1st of September. I shall consider the margin between cost and selling prices later on in my report.

While considering the contents of the above exhibit, attention is directed to Mr. Hudson's undertaking to deposit a sum of money in the bank in advance

to cover shipments as made. Although it appears that he has generally paid his accounts, the fact remains that his credit was regarded as unsatisfactory by many wholesale dealers, and this exhibit rather emphasizes a lack of confidence in his credit.

2. *Interference with Mr. Hudson's Contract for Hy-Grade Coal, 1923-24.*

On December 17, 1923, Mr. Hudson contracted with the Canada Coal Company, Limited, for two cars per week of Hy-Grade Drumheller double screened lump at \$5.25 per ton and four cars per week of furnace lump at \$4.70 per ton (see Exhibit 3—Appendix B). It may be observed that these were the regular wholesale prices of these grades of coal f.o.b. the mine at that time. Mr. Hudson stated in his evidence that he was willing to pay these prices only because of a telephone conversation he had had with Mr. Burns, the Secretary of the Winnipeg Retail Coal Dealers' Association, a day or so before, who, according to Mr. Hudson's evidence, when informed by Mr. Hudson that he would not join the association or be governed by its fixed prices, threatened to have his supply of coal shut off. The contract was made with the Canada Coal Company, Limited, then a selling agent for the Reliance Coal Company, Limited, of Calgary. The coal was billed direct from the mine and the Canada Coal Company undertook the collections, and asked the Reliance Company to watch the credit situation. This latter company received a rather unfavourable credit rating on Mr. Hudson and went to the trouble of warning the Canada Coal Company by letter on December 27, 1923.

It appears that Mr. Hudson put the Hy-Grade coal on the market at \$1 to \$1.50 per ton less than it was generally being sold at. A little later the following telegram was sent by Mr. Berridge of the Reliance Company (exhibit 24):—

CALGARY, ALTA., January 11, 1924.

H. H. HARRIS,
c/o Canada Coal Co., Ltd.,
122 Phoenix Block, Winnipeg, Man.

Wire from dealers to Coal Sellers here complaining Canada Coal selling Consumers League Hudson and Courtenay and requesting Hygrade stop shipment to you better see Cameron Coal Sellers and take matter up with him immediately show him this wire stop have your letter December twenty-fourth regarding Consumers League.

W. W. BERRIDGE.

Mr. Fraser Cameron of the Coal Sellers Company was also an agent for the Reliance Coal Company and was selling Hy-Grade coal to other Winnipeg dealers. It appears these dealers were objecting to Mr. Hudson receiving a supply of this coal because his reduced prices were injurious to their trade in that coal. Mr. Cameron stated that through the representation of the Reliance Coal Company he put it up to the Hy-Grade mine to decide whether its coal would be sold by his company or the Canada Coal Company, and this brought about the above telegram. Mr. Cameron also testified that he intended this telegram to have the effect of stopping Hudson's supply of Hy-Grade. As to whether or not this constitutes a combine such as is aimed at by the Act will be discussed later in this report.

It is however to be further noted that the question of further shipment of this coal to Hudson was referred to Mr. McConkey, the President of the Hy-Grade mine. But he merely replied—to use his own words—"It will be time enough for the Coal Sellers to tell me what to do as I had the disposition of my own coal and furthermore it was time enough to ask me to stop shipping to these people when they, the wholesalers, stopped supplying them." Mr. McConkey's company continued to fill orders to Hudson during the balance of the season. The Canada Coal Company continued to take his orders. Perhaps the fulfilment of this contract by the Canada

Coal Company may have been due to the fact that about the time this trouble arose Mr. Cotterell, the representative of this company, informed Mr. Hudson of what was going on, and Hudson then owed it upwards of \$1,000 on account. Hudson thereupon informed Mr. Cotterell that the account would be paid when and only as additional Hy-Grade coal was supplied, and also threatened to sue for damages if the contract was not carried out.

It further appears that under the apprehension of a stoppage of his supply of this coal Mr. Cotterell was able to dispose of a large quantity of additional coal which the mild weather had left on his hands. It might be unfair to Mr. Cotterell to suggest any lack of sincerity on his part, but in this instance he was able to readily dispose of this large quantity of coal, which might have been more difficult or perhaps impossible if Mr. Hudson had entertained no fears of his supply of Hy-Grade coal being stopped.

3. *Interference with the supply of Souris coal.*

Mr. Hudson testified that in the fall of 1923, he purchased a supply of Souris coal from Mr. W. L. Hamilton of the Bienfait mine, and that shortly after the cars began to arrive Mr. Hamilton came to him and suggested that he should get this coal through a wholesale dealer, as selling to him (Hudson) was getting him in wrong with the other dealers. He also suggested that further shipments for Hudson should be consigned to the Caribou Lumber Company so as not to disclose Hudson as the consignee.

In giving his evidence Mr. Hamilton could not recall any objections raised by Winnipeg dealers to him in regard to selling to Hudson or of the coal being consigned to the Caribou Lumber Company. But he had a distinct recollection of Hudson's payment of accounts being slow, a balance of some \$700 being carried well on through the summer before it was finally paid. Mr. Hudson suggested that this was due to delays in adjustments.

In August, 1924, six of the principal Souris mines entered into a joint selling arrangement under an agreement, constituting a selling syndicate called the Souris Coal Distributors, Limited. It was established to dispose of the output of these mines on a proportionate basis. The companies party to this are: Western Dominion Collieries, Limited; Bienfait Mine; Crescent Collieries, Limited; Pierce McCallum, Limited; Lignite Coal Mines, Limited; and Eastern Collieries, Limited. Mr. Thomas Taylor is the head of this selling syndicate. It is left entirely for him to decide to whom the coal shall be sold and the terms. The syndicate receives 18 cents per ton commission, and is responsible to the mines for all accounts, and makes all collections. In fact the mines are paid for coal shipped within fifteen days regardless of the terms made to dealers. If the mine advises Mr. Hamilton to sell to any particular dealer that mine becomes responsible for that account. If Mr. Hamilton had advised Mr. Taylor to sell to Hudson undoubtedly it would have been done, but it was quite apparent he did not care to assume that responsibility. He appears, however, to have recommended some independent mines to sell to Hudson.

Mr. Taylor was previously associated with Mr. Hamilton and had charge of Mr. Hudson's account with the Bienfait mine for the 1923-24 season. The terms for payment were supposed to be cash on delivery. A statement of Mr. Hudson's account was produced (exhibit 151) and shows that allowances by way of adjustments were made of \$62.55 and \$58.95 on June 5 and August 18, respectively, and the following payments were made which finally closed the account:—

May 22.—By cash..	\$ 50 00
July 14.—By cash..	165 00
July 18.—By cash..	50 00
Aug. 18.—By cash..	50 00
Aug. 30.—By cash..	100 00
Oct. 1.—By cash..	174 70

Incidentally, one might properly suggest here that if Mr. Hudson's business for last year had been as profitable to him as he has declared it to be, why should he have to wait for the proceeds of some of this year's sales in order to pay up last year's accounts?

I have dealt with this account somewhat in detail to show whether or not Mr. Taylor was justified in refusing to open a further account with Mr. Hudson. Mr. Taylor stated that Hudson when discussing a Souris coal contract offered \$1.75 per ton. Mr. Taylor refused to sell for less than his regular price of \$2.10, and that Hudson then said he would buy it elsewhere. On November 4 he called Mr. Taylor asking for a supply, but the latter gentleman told him his commitments were all made and that he could not supply him then. Mr. Taylor further stated that he would sell coal to Hudson at any time for cash in advance, but would not deal with him on any other terms. Mr. Taylor declared he could and did sell to anybody that he chose, and that he was under no obligations to any association or individuals to refrain from selling to Mr. Hudson or to any one else, and that he had never been requested to refrain from doing so. I accept Mr. Taylor's evidence on these matters.

Even if one should take the view that Mr. Taylor avoided selling Mr. Hudson Souris coal this year solely because Hudson was cutting prices, it would still remain a question whether this constituted a combine within the meaning of the Act. This feature is discussed elsewhere in this report.

4. *Gross and Net Profits claimed by Mr. Hudson and other dealers; and*
5. *Quantity of Coal handled by Hudson, 1923-24.*

For the sake of convenience I shall deal with these two topics concurrently.

When asked what would be considered a fair net profit per ton for coal most dealers replied that 50 cents would be fair, but invariably gave assurance that such a profit had not been made for several years. Some said they would be content with less, going in one or two cases as low as 25 cents per ton. None of the dealers suggested it should be more than 50 cents.

If Mr. Hudson made a net profit of 75 cents per ton and sold 10,000 tons during the season 1923-24 as he had declared he did, he would have made clear profits amounting to the sum of \$7,500. He says that after paying his living expenses during the season (November to May) he had \$2,700 to the good. Evidently these figures require an examination.

Dealing first with Mr. Hudson's declaration that he had sold 10,000 tons of coal last season, it is essential to introduce with it a consideration of some of his business methods.

From the records he produced it is absolutely impossible to arrive at anything like accurate calculations of his sales or profits. In giving his evidence he repeated that he had sold 10,000 tons last year, and gave assurance that he could produce complete records of his purchases, sales and all details of his business transactions. In support of this he produced exhibits 4 and 5. The former consists of ledger sheets which show the total number of cars he received to be 150. The number of each car is entered, also the freight charges paid on each. The tonnage is entered for only 50 cars. Of these I find 35 cars of Drumheller coal amounting to a total of 1,130 tons, making an average of 32.5 tons per car; 15 cars of Souris coal with a total of 613 tons making an average of 40.8 tons per car. The total tonnage of these 50 cars shows an average of 34.8 tons to the car. As it is not possible to determine accurately from his books the exact tonnage handled in the absence of recorded weights, but the greater portion of his sales were the smaller cars of Drumheller coal, I have concluded that a fair average over the whole would be 33 tons per car. This would make for the 150 cars a total of 4,950 tons. He appears to have purchased odd tons locally from other dealers, and also disposed of some of his

carloads in a similar way. It would therefore appear that in any event he did not sell more than half the quantity of coal he claimed to have sold. Without tendering any harsh criticism, I am bound to say that this practice of exaggeration has been manifest in most of his ideas and statements.

Exhibit 5 was produced by Mr. Hudson and he stated it to be a complete record of all carloads of coal purchased last season, and also the out-turn, and cost, and the selling prices. An examination of this book discloses the fact that only 100 cars of the total number of 150 which he purchased, are entered therein and a complete record of the out-turn and cost and selling prices is recorded of not more than 15 cars. Even in these instances one is obliged to guess at the meaning of certain entries. When Mr. Hudson was asked about certain of these entries, he said he could not explain them and would have to inquire of his son as to their meaning. The weights of the cars, however, were entered in this book for all cars recorded, and it is to be observed that the 100 carloads entered give a total of 3,272 tons. Assuming that the unrecorded 50 cars contained a similar average in weights, as I have no doubt they would, his total tonnage for the season calculated from this basis would amount to 4,908 tons. This confirms the view expressed above, that the total quantity of coal delivered to his customers last season does not, in any event, exceed 4,950 tons.

The only records which are available whereby his alleged profit of 75 cents per ton net can be calculated are contained in exhibit 5. From the entries contained in this book I was only able to find the out-turn of 13 cars or 378 tons on which his claimed profit appears to be \$233, or an average of 62 cents per ton, and many entries shewed a loss, but all are so incomplete that it would not be safe to arrive at a definite conclusion, but from what information I could glean from this record I am indeed very doubtful if he had any profit at all. I am inclined to think that his operations would have resulted in loss or complete failure had it not been that he recouped his losses by the large quantity of coal available in the market at the buyer's price during the last three months of the season.

It also appears from his car record that with the entries of 37 cars he has shewn a quantity of slack from each car. The total of this amounts to 39,500 pounds or an average of a trifle over one half ton per car. For the remainder of the cars recorded there is no statement of the quantity of slack contained.

Other retail dealers have testified that they have on an average approximately one ton of slack per car, and I accept this as more accurate. This slack is sold for whatever price can be got. Hudson sold this for \$3.50 per ton last year. Calculating this on a selling price for coal of \$11, \$12 and \$13, respectively, it means a loss of \$7.50, \$8.50 or \$9.50 per car. There is also a quantity of stove and nut sizes screened from each car which sells considerably below the price for lump coal, and increases the loss at least from \$6 to \$8 per car of furnace lump coal, making a total loss from degradation to be made up from the remaining tonnage of lump coal sold from the car of at least 50 cents per ton on the basis of Mr. Hudson's prices. When the coal is unloaded from the cars into bins, and more so if it remains on hand a month or longer, this loss would be doubled by the additional breakage from handling and the effect of the weather, to say nothing of the cost of unloading and the additional screening thereby entailed. Mr. Hudson of course escapes this when he unloads the coal direct from the car to the delivery wagon. But he has at times unloaded large quantities on the ground.

Another very serious item of loss which is applicable to most Alberta coals is the shrinkage in the weights. Apparently this is unavoidable, and no very satisfactory explanation has been given. It has been suggested that this is due in part to the high percentage of moisture contained in the coal which escapes by air drying. I am convinced this shrinkage will average something in excess of three quarters of a ton per car. Of course there have been many cases of

shortage in weights ranging as high as from three to six tons from a car. I think, however, these are due to some error in weighing and for which some allowance is usually asked and obtained. I think it is fair to state that the shrinkage alone means an additional cost of 50 cents per ton to be taken care of in the selling price.

It will therefore be seen that Mr. Hudson's retail price must cover the loss from degradation and shrinkage of at least \$1 per ton, and not 40 cents to 50 cents as stated by him. The figures submitted by many dealers are considerably in excess of this. Delivery costs, shrinkage and degradation are the very same this season as last.

Mr. Hudson's supply of Drumheller coal this year is mostly confined to the small newly opened mines which, owing to the absence of efficient equipment, are bound to produce preparations somewhat inferior to those of the large and well equipped mines. This will tend to add materially to his degradation costs. Unless he is delivering to his customers coal that is much inferior to the preparations generally delivered by the retail dealers, he cannot escape these costs. Other dealers unanimously declare that their customers will not accept coal containing slack or much of the small sizes. It may be that Mr. Hudson's customers are not so particular, or, perhaps paying a lower price do not expect as high quality.

With reference to Mr. Hudson's cost for delivering coal last season, I find it was \$1 per ton. Of course in the few cases in which he delivered a three-ton load it was 75 cents per ton. But there appear to be as many cases in which he delivered less than ton lots upon which an extra charge was made as there are three ton lots delivered. So that for all practicable purposes his cost of delivery must be reckoned at \$1 per ton and not at 80 cents as he stated in his declaration. Mr. Courtney claims to have paid as high as \$1.25 per ton for a considerable part of last season's business, and an average of at least \$1.10 per ton for the season. Coal dealers have testified quite generally that the cost cannot be put below an average of \$1 per ton, and Hudson himself admitted in his evidence that it was \$1 per ton.

Calculating these costs on the above basis, Mr. Hudson at the time of making his application and declaration, had to pay a price of \$4.70 per ton f.o.b. the mine, plus freight at \$4.70, plus \$1 per ton shrinkage and degradation, plus \$1 per ton for delivery and plus his admitted cost of advertising of 10 cents per ton makes a cost of \$11.50 per ton delivered, and he stated his selling price was \$11 per ton or \$10.75 in three-ton lots. I am convinced that he lost money except in cases where he may have been able to buy a cheaper grade coal.

Mr. Courtney, in his declaration, stated that Drumheller coal should be profitably retailed at \$11 per ton. From evidence obtained at Edmonton and Drumheller it appears that between November 22 and December 12, 1923, he purchased from the Rosemount mine direct 685 tons of Drumheller lump coal at a reduced price of \$4.42 per ton. At first this was billed draft attached to bills of lading, and after shipment of three cars this was extended to fifteen days. The mine declined to ship him any more coal after December 12, and on January 1, 1924, he still owed \$1,968.39 on this coal. About the middle of January he succeeded in negotiating a further reduction on this coal of about 22 cents per ton on condition that the balance of the account would be paid forthwith. During January he made further payments to the extent of some \$1,300, leaving a balance of \$596.37 still owing. The mining company finally sued him, and in September last in an undefended action secured judgment against him with costs.

Unable to secure further shipments of this coal from the mine, about the middle of December he purchased it through Patterson & Boorer, of Edmon-

ton, until about the middle of January. His first cheque to that company on account was returned dishonored by the bank. He paid a part of this account however, and finally on April 10, 1924, gave his promissory note to that firm for a balance of account of \$900, payable in thirty days. But this note still remains unpaid. Mr. Courtney also admitted that he still owes considerable for Souris coal purchased last season. He admits a loss of over \$800 on his five months' work.

In regard to his transaction in Drumheller coal this season, he has been purchasing from a small newly opened mine in which he claims to have an interest. This has been shipped to him to handle as best he could and remit to the operator whatever price he thought was fair. He has been paying \$3.25 per ton f.o.b. the mine. The freight of \$4.70 per ton makes a cost price to him at Winnipeg of \$7.95. Undoubtedly the coal is not very well prepared.

From this coal he appears to have sold upwards of 400 tons of stove size at prices ranging from \$9.50 to \$10.75 per ton and upwards of 500 tons of lump and select lump at prices ranging from \$10 to \$12.50 per ton. A fair average price of the stove coal would be \$10 per ton, and for the lump it would be \$11.25, or a general average of \$10.75 per ton. It will therefore be seen that on account of his low price his margin of gross profit has been generally not less than \$2.55 per ton. How can it be said that he is operating a retail coal business on a considerably lower margin than the dealers against whom he has made the complaint that they, in effect have charged an unfair margin between cost and selling prices? Moreover he has fixed both the cost and selling prices. Why has he not kept within the margin which he and his co-complainant have declared should not exceed \$1.55 per ton?

All the retail dealers who were called upon to testify were obliged to furnish full and complete information as to salaries paid, detailed operating costs, quantities of coal handled, etc. When Mr. Hudson was asked for this he referred me to his books, and when I asked him to obtain an auditor's statement of last year's transactions, his reply that he could not afford to pay for it was significant. I would, however, have had this done at the expense of the Commission, but an examination of his books and accounts showed that the information contained was so meagre and so incomplete, as indicated above, that it would be impossible for anyone to arrive at any accurate calculations.

Considering Mr. Hudson's business methods so far as accounting and recording his transactions are concerned, I am bound to say that I could not recommend their adoption to anyone. Nor can I believe that any business carried on in such haphazard fashion can achieve success with such absence of the first principles of business methods in a business where the margin between buying and selling prices must be kept low and where the competition is as keen as it is in the coal trade. It was much easier for him to survive throughout last year's business because by mid-winter the exceptionally mild weather threw a large quantity of coal on the market to be bought by anyone at slaughtered prices.

Mr. Hudson's declarations as to costs of operation, and net or gross profits cannot be sustained by any of his records. On the contrary his records, so far as they are at all intelligible, show that his statements are founded on pure conjecture, and by one who, with all due respect, is inclined to extravagant and exaggerated statements.

It will not be out of place here to give another illustration of Mr. Hudson's exaggerations. He stated in his evidence (Proceedings, page 3055) that he had sold over 10,000 tons of coal and coke this season. Upon adding up the total tonnage of his car record, which he declared was complete as to cars and weights, I find that he had received at that date only 6266 tons, of which at least 1,000 tons were then piled in his yard.

The retail dealers of Winnipeg called to testify were obliged to furnish statements of their costs of handling coal in detail, including salaries paid managers and office help. The salaries paid are very modest and the amounts chargeable to retail coal business averages about \$3,000 per year. The average cost per ton of handling coal last season is about \$2.57 per ton. Some dealers appear to have operated at a loss, others show a net profit as high as 38 cents per ton. Most of the dealers have yards and equipment with a capacity for handling three or four times their actual turnover. This together with the mild winter is responsible for the high costs of operation and low net profits.

Some dealers were bold enough to declare that coal could not be profitably handled at the rates charged by Mr. Hudson, if the dealer paid for his coal, gave honest weights and delivered as good a preparation as the public was entitled to and generally received.

From an inspection of a number of the yards and observations of methods of handling coal, the screening and preparation given to it, I am driven to the conclusion that the retail dealers have furnished their customers with coal of a quality superior to that of the two complainants. I have not been able to discover any unnecessary preparation or handling of the coal, or any items of unnecessary charge. The scarcity of coal as a result of last summer's strike has made it up to the present time almost impossible for a supply from the well-equipped Drumheller mines to reach any but their well-established retail customers. This of itself has been sufficient to force the complainants to accept such coal as they could get, which was, generally, that produced by mines which are newly opened and are not well enough equipped to produce first-class preparations. Other factors than the scarcity of coal production have also been at work, and these are discussed elsewhere in this report.

Without attempting to fix definitely a fair margin between buying and selling costs, I have, however, come to the conclusion that after a careful examination of overhead and all other incidental expenses involved in a retail coal business, and having gone to the trouble of personally inspecting the methods employed by many of the large dealers in handling their coal, I am unable to say that an average spread of \$2.57 per ton will yield a net profit at all commensurate with the money invested and the risks that must be undertaken.

6. Refusal to join the Winnipeg Retail Coal Dealers Association or to be governed by its Fixed Prices.

Mr. Hudson testified that in November or December, 1923, he was approached by Mr. Burns, the Secretary of the Retail Coal Dealers Association of Winnipeg, to become a member of the association and to be governed by its prices. This he stated occurred shortly after he began business for himself that season, and had been advertising coal at reduced prices. He states that he refused to be governed by others in the matter of prices and that Burns then told him the association would see that his supply of coal was shut off.

Mr. Burns denies having had such a conversation with anyone, and says that in all probability he did communicate with Hudson about that time with a view to securing his membership, as he was then busily engaged in building up the association.

In all probability Mr. Burns said sufficient to raise in Mr. Hudson's pre-disposed mind the suggestion that if he failed to join the association and reduced his prices to the extent that he was then doing, an attempt would be made to put a stop to his securing a supply of coal.

I shall leave further reference to this association to my discussion on that particular matter in this report. I am quite convinced that at no time could this association shut off Hudson's supply of coal, because any person who proposes to deal in coal and has money to buy it can do so.

7. *Interference with a Supply of Carbon Coal.*

Mr. Hudson related that about February, 1924, Mr. McKenzie and Mr. Bowman of the Bowman-Thayer coal company induced him to handle carbon coal and gave him a quotation for the balance of the season, and that it was understood that if Hudson put this coal on the market successfully he was to have an ample supply during the season 1924-25 at the same price. He further says that he contracted to sell 1,000 tons of this coal to a club for delivery early in this season, and he entered into an absolute contract with the Bowman-Thayer company for this quantity of Carbon coal. But when he required delivery he was put off by one excuse after another and finally was told he could not get the coal, and so lost this large order.

Mr. Hudson testified that Mr. Hodges, of the Bowman-Thayer Company, called on him one day and told him "they were getting after me pretty hot." Mr. Hodges' version of this matter was to the effect that his company had sold Mr. Hudson several cars of Carbon coal and Hudson had asked for assurance of a supply, but says no assurances could be given as the strike was on at the time and until that would be settled nothing of a definite nature could be arranged. He was not present when the Carbon coal was sold to Hudson. He denies that he told Hudson that other dealers were getting after him pretty hot.

Mr. McKenzie, of the Bowman-Thayer Company, was present a year ago when Mr. Bowman sold Hudson a dozen or twenty cars of coal at \$4 per ton, but denies that there was any discussion about Hudson being assured of a future supply of Carbon coal. He further says there was no contract or agreement for delivery of any coal to Hudson beyond what he required for last season. Mr. McKenzie further testified that no one had ever "got after" his company or made any objection to selling to Hudson and that his company had never refused to sell him coal if they had the coal to sell.

I am unable to find that any contract or agreement was ever made with the Bowman-Thayer Company for delivery of Carbon coal to Mr. Hudson for the current season, nor was there any interference from outside sources with any of the dealings of this company with Mr. Hudson.

8. *Contract for 3,000 tons Craig coal. The failure of the Canada Coal Company, Limited, and the Western Fuel Company to carry out the contract.*

It appears that early in August, 1924, Mr. Cotterell, the Winnipeg representative of the Canada Coal Company, Limited, of Brandon, was in communication with Mr. Hudson with a view to selling him a supply of Craig, Drumheller coal for the current season. Mr. Hudson in his evidence says, that about the 9th or 10th of August Mr. Merkley, of the Western Fuel Company of Saskatoon, called on him in company with Mr. Cotterell, and the proposition was to buy 10,000 tons of lump coal which would meet the requirements of the city by-law. Mr. Merkley's final offer was \$4.55 per ton f.o.b. the mine, and Mr. Hudson was unwilling to pay more than \$4.45 per ton. The deal was not completed, but on the same day Mr. Hudson ordered two cars of this coal at \$4.55 per ton, and Mr. Merkley stated that these two cars were not quite up to standard grade. He says that Mr. Merkley left him with the understanding that he would submit the matter to the mine and advise him later as to whether or not he could accept Hudson's offer of \$4.45.

Mr. Hudson further says that about the 22nd of August Mr. Harris, of the Canada Coal Company, called on him and stated that he had received a telegram authorizing him to come to Winnipeg and close the contract for Craig coal. This telegram read to the effect that the Western Fuel Company had secured extra tonnage from the Craig mine and that it was O.K. to make the deal with Hudson. He relates that Mr. Harris informed him that he had recently attended the convention of the Western Canada Fuel Association and that the chief discussion of the convention was to devise ways and means to put him

out of business, and that Mr. Harris pointed out to him that his supply of coal for the current season would be very precarious. The price he quoted Mr. Hudson on this coal was then \$4.70 and Mr. Hudson contends that by reason of the activities against him he thought it best, in order to secure a supply of coal, to close a contract with Mr. Harris for 3,000 tons at that price. This contract was endorsed subject to acceptance by the mine. Mr. Hudson further stated that after some two or three cars were supplied to him on this contract, and notwithstanding his requests to forward shipments, no further coal was shipped to him.

Mr. Harris in his evidence denied having told Hudson of the activities of the convention of the Western Canada Fuel Association to put Hudson out of business, and notwithstanding having afterwards urged Mr. Hudson to purchase an additional 200 cars of this coal, stated that the Western Fuel Company had discontinued shipments. The following correspondence was produced by him, which throws some light upon the facts:—

BRANDON, MAN., August 23, 1924.

WESTERN FUEL Co.,
Saskatoon, Sask.

Attention Mr. Merkley

DEAR SIRs,—Enclosed please find order from A. B. Hudson for 3,000 tons Craig Furnace Lump coal at \$4.70 per ton. I have given Mr. Hudson to understand that shipping instructions are to be mailed direct to the Craig mine and that the mines would invoice bill and draw on him every ten days, and that our names do not enter into the arrangements any way whatsoever. The best way for us to handle this is to stay with the agreement that we outlined when you were down in Brandon, namely, 20 cents per ton commission on all Drumheller coals excepting Elgin. Mr. Hudson has just received an invoice from these people for one car, price \$4.55 so if you have made arrangements for a special cut with the Craig mine you had better inform them to be sure to invoice all future cars at \$4.70.

Kindly let us have the Agreement mailed you duly signed, so that we can get same fixed up, as the other directors of the company have been constantly asking me about same.

Yours truly,

CANADA COAL COMPANY, LTD.

Per

GfH/FC

P.S.—Please instruct the Craig Mine to acknowledge receipt of this order direct to Mr. Hudson as soon as possible.—C.C.C.

SASKATOON, SASK., September 12, 1924.

CANADA COAL COMPANY, LTD.,
Brandon, Man.

DEAR SIRs,—We have your letter of September 11 with an order enclosed for the Hudson Coal Company for a car a day of Craig coal. I do not know what we can do with this account. Our bank has told us not to ship him, as they do not consider his account safe, and we do not like to ship him against their advice. He has returned our drafts covering the early shipments, and we think he had better look elsewhere for coal. We have also had several complaints from other dealers in Winnipeg, saying, "That they would not handle a pound of Elgin coal if we shipped Hudson". We can surely find a better class of trade than this to ship to. If you want to turn over any cars we shipped to you at Winnipeg to Hudson any time, you may suit yourself, but you had better notify Hudson that we are not shipping anything further. There will be one or two cars out this week for him and that will be all the coal we are shipping him direct. With the demand for coal as keen as it will be this fall, we cannot afford to take chances on weak accounts, particularly when they are conducting business on a narrow margin like Hudson. He can no doubt secure all the coal he requires from the people he contracted with.

We have nothing further regarding the strike situation. We do not know just when we will be running the Elgin. We are giving a special order that shipment will be made to the City Lumber and Fuel at once.

Trusting that is satisfactory to you,

We are,

WESTERN FUEL COMPANY.

Per H. G. MERKLEY.

HGM/HB.

Mr. Merkley stated that after confirmation had been given to the contract for 3,000 tons, he was not satisfied with the way in which Mr. Hudson had met his drafts on the few cars shipped and therefore decided not to complete the contract. He says that he attended the convention of the Western Canada Fuel Association held in Brandon about the 5th and 6th of August, 1924, and denies that there was any discussion in regard to Mr. Hudson. He admits that he knew that Hudson was in rather bad grace with the Winnipeg Retail Dealers for cutting prices and that this together with his own observations of Hudson's business methods and an unfavourable commercial report he had received in regard to him was the reason why he did not consider the account with Hudson would be satisfactory.

The report of the proceedings of the Western Canada Fuel Association did not disclose any discussion relating to Mr. Hudson. I have no doubt that in a general way the convention did discuss dealers that are not recognized by the association as legitimate dealers, frequently called "Snowbird dealers." I do not think that any particular discussion of Hudson was indulged in by the convention. I am of the opinion however that Mr. Harris did represent to Mr. Hudson that his supplies were likely to be interfered with, and no doubt went to the extent of telling Hudson something which led him to believe that the main activities of the convention were aimed at him, else why would he within a period of two weeks be ready to pay 25 cents more per ton for the same coal than he had previously been willing to pay, and 15 cents per ton more than the price offered to him by Mr. Merkley? It is quite apparent that statements of this character had been used on different occasions to prompt Mr. Hudson to buy coal, and I doubt if on any other occasion he ever paid the market price for coal.

The failure to carry out this contract was no doubt a disappointment to Mr. Hudson at a time when he needed coal, and was probably the thing which finally prompted him to apply for an investigation. On account of the importance of this incident I have quoted above the two letters (exhibits 20 and 23), which passed between the Western Fuel Company and the Canada Coal Company which throw considerable light on the real situation.

With regard to the discontinuance of the shipments of coal, I have no doubt that Mr. Merkley was not anxious for Mr. Hudson's account, because he felt that owing to the scarcity of coal at that time, and as he stated in his letter to Mr. Harris, he could dispose of this coal very rapidly to customers whose accounts were beyond financial question. I am also of the opinion that both he and Mr. Harris, although they might not look as favourably upon a dealer who was cutting prices, yet if they could sell to him a substantial quantity of coal without it becoming known to other dealers, they were quite ready to do so. I have no doubt it was their intention in this instance to supply this coal to Mr. Hudson, but the unfavourable attitude of Winnipeg dealers to Mr. Hudson and his methods of doing business, and the probability of this transaction becoming known to them became an important factor in the mind of Mr. Merkley when he decided to discontinue shipments on the contract.

It is also to be observed that in some cases there are two wholesale dealers between the producer and the retail dealers each of whom receives a fair selling commission, and as it afterwards developed from the evidence of the manager

of the Craig mine, Mr. Stenhouse, at Drumheller, that there were three in this case. First, the Whitlock Lumber Company, which controlled the output of the mine; then the Western Fuel Company with the disposal of half the output, and next the Canada Coal Company, Limited, as a selling agent for the Western Fuel Company. It is to say the least not conducive to the best interests of the producer or of the retail dealer or to the consumers at large that this state of affairs should exist. It probably did not enhance the price to the consumer in this case, but it was at least an unfair burden upon the producer.

It is quite apparent that retail dealers were actively opposed to wholesalers and mine operators shipping coal to Mr. Hudson, and that this influence was one of the factors which led to the discontinuance of shipments of coal to him under his contract. This of course gives rise to considerations which I shall presently deal with.

9. United Grain Growers influence to discontinue shipping to Hudson.

Messrs. Naylor and Hesleton, Wholesale Coal Dealers of Calgary, Alberta, have the sale of the Excelsior mine at Wayne, Alberta. For some time past they have been supplying the United Grain Growers of Manitoba with a large quantity of coal at wholesale prices. The United Grain Growers sell this coal through their retail depots at the numerous towns and villages throughout the western provinces where they have grain elevators. It appears that Mr. Hudson had obtained some coal from them on a few occasions.

Mr. Hudson relates that Mr. Williams, of the United Grain Growers, and Mr. Naylor of Naylor and Hesleton, came to him probably in July, 1923, and wanted to sell him Excelsior coal, but he was not interested at that time. Early in August he asked Mr. Williams to ship him a sample car of the Excelsior coal, and mentioned to Williams that the Winnipeg dealers would probably endeavour to prevent his obtaining a supply of this coal, but he says that Mr. Williams assured him they could sell coal to anybody that had the money. In a few days he ordered another car and then gave an order for two cars per week, and desired to increase the order as the season advanced. Then mild weather obliged him to hold up shipments for a time and he says that Mr. Williams suggested he should take in all the coal he could; that there were things working behind the scenes and he might not be able to get any more coal. This was about the first of September. A few days later he says that Williams advised him that he had instructions from Naylor and Hesleton not to supply him any more Excelsior coal. When asked about Newcastle and other coals he says that Williams replied: "You know Jesse Gouge supplies us with a lot of coal; we send Newcastle to country points quite regularly and if we supply you Jesse Gouge will cut off every pound of coal we have been getting."

In his evidence Mr. Williams gives his version of these matters. He says that during the strike the Excelsior mine was endeavouring to operate and in July orders were scarce and he took Mr. Naylor up to see Hudson, but Hudson was then making washing machines and was not interested in buying coal. He says that Hudson called him up about August 1, and wanted a couple of cars of Excelsior and that if it was good he would take 200 cars, but says that he informed Hudson he could not take his order in that way as he was not prepared to take any large orders. Hudson told him to send on a couple of cars anyway. These were shipped, and in fact shipping was continued for some five cars as orders were slack. He denies emphatically that he told Hudson that there were things moving behind the scenes and that he should take all the coal he could get. But admits, that when Hudson wanted more coal he told him he had a letter and did not know how long he could supply him. He says that Hudson also asked for a supply from other mines, but Mr. Williams says he told Hudson that their interests were in supplying their country agents, and says that Hudson asked him to divert cars to him that were billed on country points. This he declined to do and told Hudson they could not have their prestige affected at

the mine by doing anything of that sort. He denies that he stated that Jessé Gouge would cut off every pound of coal they were getting if he supplied Hudson. He stated that the Grain Growers never make a rule of supplying anything but their own country trade, and that they would not be acting bona fide if they diverted cars destined to their country agents and delivered them to Winnipeg dealers when these large mines have their own exclusive retail agents.

Mr. Williams admits that on account of a letter from Naylor & Hesleton, which I shall refer to presently, he discontinued shipping coal to Hudson a week or ten days sooner than he would otherwise have done, that once their country depots began to handle coal actively he could not supply any to Hudson.

Mr. Whalley, a superintendent of the United Grain Growers, was called to testify, and in a general way corroborated Mr. Williams evidence as to their business being chiefly confined to supplying coal to their own agents in country places. He produced the following correspondence:—

CALGARY, 192

DEAR JIM,—Enclosed please find wire and my reply. Please let me have your sentiments.

Kind regards.

Please return enclosures.

F. N.

MESSRS. NAYLOR & HESLETON,
Calgary, Alta.

WINNIPEG, August 18, 1924.

Attention—Mr. F. Naylor

DEAR SIRS,—We are in receipt of your memo. of recent date, with enclosures showing copy of a wire you have received from certain Winnipeg dealers, and your reply to them.

We had intended writing you on this subject today in any event, as prior to their sending you the wire which they did, the parties concerned called on the writer in this connection.

Now the following sums up our thoughts in this connection. We have nothing to lose by continuing to sell Hudson coal, but the local dealers could, and probably would make things very difficult for you, and, therefore, if it is your wish that no more Excelsior coal be sold to this man, we will be glad to co-operate with you to this extent, and we will simply cut him off.

Of course, there is no reason why Hudson should not be sold coal in the ordinary way. He has the equipment for doing business, is a licensed dealer, and we are of the opinion that if the trade generally in Winnipeg were to work with him instead of bucking him, they could get him into line, and, of course, their policy of attempting to close up his avenues of supply is a very foolish one, because he has continued to get coal now for over two years, and as a matter of fact, he has a car of Sunshine coal on the track to-day, and as he explained to us verbally just recently, when talking about the whole coal situation, it is ridiculous to think of the different pressure that is being put on his connections to stop the supply, when you consider that when coal was plentiful and there were forty or fifty cars on the track, the dealers in town were willing to sell him at a better price than district price to get him to take some of the coal off their hands. We had no compunction in selling him Excelsior coal because when you were recently in Winnipeg, you made it a point to call on him with Mr. Williams, and we therefore do not feel that we have jeopardized any of your other connections unknowingly to yourself.

There is another thought in this connection, and that is, that this man Hudson, if he can get coal wholesale, picking it up as he requires it off the track at Winnipeg at cut prices, would ditch any other connection he may have formed, unless, of course, he recognizes the dealers are serious and are not going to give him coal later on in the season.

The foregoing are just a few thoughts in this connection. To boil the whole matter down, would say that if you do not want to be in a position of having similar ultimatums put up to you, as per the wire which you recently received, and would therefore have us refuse Hudson's business, let us know and we will work with you in this connection.

Yours truly,

JSW/AG.
Enclos.

CALGARY, September 3, 1924.

J. S. WHALLEY, Esq.,
United Grain Growers, Ltd.,
Winnipeg.

Re *Hudson Coal Co.*

DEAR SIR,—The writer has just returned from the coast and has carefully read your letter in this connection and believe it would be to our interests to stop shipments to this firm until he comes into line with his price as it seems to be causing a lot of trouble in Winnipeg.

Yours very truly,

NAYLOR & HESLETON.

Per FRED. NAYLOR

Mr. Whalley stated emphatically that he had no real grounds for many of his statements in reference to Hudson's difficulties in his letter quoted above, such as having any knowledge of a policy to close Hudson's avenues of supply and of pressure that was being brought to bear on him. He gave three reasons for refusing to continue selling to Hudson, namely: first, that he was afraid of his account; second, he required their coal at that time for their own agencies; and third, that he could not afford to antagonize the mines from which they were purchasing. Mr. Whalley, like many others, underwent a most searching cross-examination by counsel, but it all lent colour to his reasons, as stated above.

Mr. Robinson, of T. D. Robinson & Sons, Limited, of Winnipeg, was called to testify and produced the following telegrams and letter:—

WINNIPEG, MAN., August 15, 1924.

NAYLOR & HESLETON,
Calgary, Alberta.

Hudson Coal Company unloading car Excelsior shipped by you to Grain Growers stop Hudson retailing this coal at cost and doing his utmost to upset retail prices here stop Unless you refuse to ship this man it will be impossible for us to sell your coal as all the dealers are up in arms. Wire reply.

T. D. ROBINSON & SONS, LTD.,
HALLIDAY BROS.

Night Letter.
Charge T. D. Robinson & Sons, Ltd.

CALGARY, ALTA., August 16, 1924.

HALLIDAY BROS., LTD.,
208 Hargrave, Winnipeg.

Have no desire to corrupt market writing you to-day advise Robinson.

NAYLOR HESLETON.

CALGARY, 16th August, 24.

MESSRS. HALLIDAY BROS., LTD., and T. D. ROBINSON AND SONS, LTD.,
Winnipeg.

DEAR SIRS,—We have your wire of yesterday's date in connection with car of coal shipped to the U. G. G. and sold to the Hudson Coal Company.

As stated in our wire of this morning we have no desire to enter into any controversy or cause any trouble in the coal business in Winnipeg as there are plenty in Alberta at the present moment.

At the same time you will appreciate that it is a difficult matter for us to control when we have a contract with the U. G. G. and they would have to sell this coal at field price.

With regard to the other dealers in Winnipeg being up in arms we must state that we have not had the pleasure of shipping a great deal of coal to them and they can hardly dictate to us the policy we shall conduct or adopt in our business.

However, whilst we may not have at the present time the pleasure of doing business with them we do not wish to antagonize them and with this end in view we are looking further into the matter and will communicate with you further later.

Yours very truly,

NAYLOR & HESLETON.

Per F. N.

Mr. Robinson stated that his company had advanced money to Naylor and Hesleton, the owners of the Excelsior mine, and was being repaid at the rate of \$1 per ton on coal marketed and was therefore interested in having as much as possible of that coal placed on the market. But immediately it was learned by Winnipeg dealers who were handling this coal that Hudson also was selling it, their customers would cease buying it. He testified that he knew nothing of the pressure referred to in Mr. Whalley's letter, and apart from this incident had never been a party to any opposition to Mr. Hudson.

Mr. Halliday, of Halliday Brothers, testified to practically the same facts.

Mr. Naylor, of Naylor & Hesleton, Calgary, put his position in this matter in these words: "Well, it was just simply an ordinary deal that if there were going to be two factors in the coal business in Winnipeg and I couldn't sell to both of them then, as a business man, I should be in a position to choose which faction I should sell to, and I chose to sell to my old connections rather than make a new connection with Hudson, whom I had not sold to direct."

So far as the Grain Growers' are concerned I think the three reasons given by Mr. Whalley set forth their true position in the matter, but I am inclined to think that the most cogent reason at the time was that he did not wish to take any risk of antagonizing any of the Grain Growers' supplies of coal for the sake of Mr. Hudson's account.

There can be no doubt that both Mr. Robinson and Mr. Halliday acted in concert with Mr. Naylor with the purpose in view of preventing Hudson from obtaining a supply of Excelsior coal, and I am satisfied that their joint action had that effect, and would have been successful even though Mr. Whalley had remained silent in the matter. I do not find that Mr. Whalley joined the others in any endeavour to stop Hudson's supply. As to whether or not the concerted interference of Messrs. Robinson, Halliday and Naylor brings them within the meaning of a combine as defined by the Act, I leave to a discussion later in this report which deals fully with my views in this respect.

10. *Systematic Boycott against Hudson in the Drumheller District.*

Mr. Hudson in his declaration to the registrar in support of his application stated that about the 1st of October last he endeavoured to obtain a supply of Drumheller coal from a Winnipeg wholesale dealer and received the reply: "You are taboo, Hudson. The mines at Drumheller have decided to put you out of business and you might as well quit now as later on." On his examination he in effect repeated this statement, and said that it was Mr. Williams of the United Grain Growers who had made this statement to him.

Mr. Williams denied ever having stated this. At least he said he had no recollection of any such conversation, and that the word "taboo" did not belong to his vocabulary at all (although this was the one word which Mr. Hudson claimed he distinctly remembered his using) and that he could not have said anything to this effect because he knew nothing of any opposition to Hudson at Drumheller and had no grounds for even thinking of such a thing.

So sharp a conflict is not always easy to decide. In the first place Mr. Hudson admits that Mr. Williams had always been very friendly to him and had accommodated him with a few cars of coal occasionally. The tone of Mr. Whalley's letter to Naylor & Hesleton, quoted above, was decidedly friendly to Hudson. One would have thought that if Mr. Williams had made such a

statement there could be no good reason for denying it, and I doubt very much if Mr. Williams would make such a statement without some substantial grounds. Several of the coal producers at Drumheller gave evidence, none of whom appear to have known anything of Hudson until this investigation began, and all denied having any knowledge of the existence of any opposition to him.

In all probability Mr. Williams, who at the time of this alleged conversation had first been asked for a supply of American coal, and not being, as he stated, interested in Mr. Hudson's efforts to obtain a supply of Drumheller coal, may, in answer to Hudson, have made some common-place jocular remark to Hudson regarding a supply of Drumheller, with the result that Mr. Hudson took it seriously and came to a conclusion in his own mind, and then expressed his idea in his own language. In view of the fact that he was then having serious difficulty in obtaining Drumheller coal through actual opposition accentuated by a general difficulty experienced by all dealers to obtain supplies of this coal, he readily interpreted the whole situation as part of the opposition which he believed was aggressive on all sides against him. I cannot however attribute to Mr. Williams the part of the statement that the mines at Drumheller had decided to put him out of business and that he might as well quit now as later on.

11. *The alleged determination of the Western Canada Fuel Association to destroy Hudson's business, and to this end the greater part of the last Convention of the Association had been devoted to finding the means of doing so.*

The general activities and position of this association are fully discussed elsewhere in this report. For the purpose of considering this allegation I may say that it recognizes two classes of coal dealers—the class it terms as legitimate dealers, and another class of dealers not regarded as legitimate—commonly known to the coal trade as "Snowbirds." This latter class is the subject of further special consideration herein. The distinguishing characteristic of the dealers which are recognized as legitimate, is equipment with yard facilities and carrying on a coal business regularly throughout the year.

Mr. Morrison, the secretary of the association, testified that Mr. Hudson is regarded, and is entitled to be regarded by the association as a legitimate dealer, but does not appear on their printed list of legitimate dealers (exhibit 30), for the reason that at the time of its publication, upwards of two years ago, Mr. Hudson was not operating a coal business for himself, and that a complete revision of the list has not since been possible.

If Mr. Morrison's statement is true that Hudson was regarded by the association as a legitimate dealer, the allegation of its activities against him would surely be without foundation.

Several of the witnesses who testified stated they had attended the convention of the association in Brandon on August 5 and 6 and everyone emphatically denied that any reference was ever made to Hudson. They all admit a general discussion of the question of "Snowbirds." A resolution was adopted which proposed that legislative means of prohibiting "snowbirds" operations should be sought. The secretary's report contained a reference to his past year's activities in opposition to the unequipped dealer.

In support of his allegations Mr. Hudson filed copies of a publication known as "The Western Canada Coal Review," which contains an article on the convention and its treatment of "snowbirds." Outside of this he relied on the statements he claims Mr. Harris made to him on the occasion previously discussed herein.

Having in view Mr. Hudson's assertions, all witnesses who had attended the convention were submitted to a severe and searching cross-examination both

by counsel and your commissioner. Not a single admission that Hudson's name had ever been mentioned could be drawn from any of them, and it is difficult to conclude that all would consistently perjure themselves in this flagrant manner.

I cannot believe that the convention ever discussed putting him out of business. The convention appears to have spent its time in discussing general rather than local matters. And at a convention lasting but two days, with the important general matters of short weights and the establishment of a wholesale section and such like, it is quite evident there would remain very little time for the consideration of other matters.

Any statements or hints made to Hudson that such were the activities of the convention, I am quite convinced were made to assist in closing sales, and were not founded on fact.

12. *But for the existence of a combine the Coal Consumers of Winnipeg would benefit by an amount of between \$300,000 and \$500,000 per year.*

Taking the above statement which is contained in the declaration of the applicants together with the evidence of Mr. Courtney and Mr. Hudson, their contention in effect is, that the methods of other coal dealers are so cumbersome and antiquated that but for the combine which enables the dealers to maintain them, the more modern and simple methods of these complainants would be generally adopted and would result in decreasing the cost of coal in the aggregate to the extent of from \$300,000 to \$500,000 annually.

They claim that their system is characterized by two fundamental differences: (I) buying and selling on a strictly cash basis, and (II) the delivery of coal direct from the car to the delivery wagon.

From their evidence it appears that both of the complainants sell on a strictly cash basis, and decline credit orders. They pointed out that a retail credit system meant losses in accounts which had to be met as an overhead expense, that is, it increased the cost of doing business to the extent of the loss sustained by bad debts. This is undoubtedly true, and moreover it adds to the work and expenses in book-keeping, postage, clerical staff, stationery, etc. But it can scarcely be said that this is any evidence of a combine, or even of the desire of any one to perpetuate a state of affairs that may not be economical. If a credit system of buying coal indicates a combine these complainants are themselves a party to one.

Can a strictly cash system of selling coal in this country be universally adopted? At all events its adoption would create many real hardships at the present time. At the hearings held in the City of Regina a cut-price coal dealer voluntarily gave evidence, and his views largely coincided with those of Mr. Hudson and Mr. Courtney, and oddly enough he and Hudson both gave the same answer when asked what would hundreds of perfectly honest workmen and others do for coal, who through unemployment or meagre means were unable to pay cash for their coal. Their answer was that they should seek relief from charitable institutions.

I believe it is impossible to eliminate the giving of credit to consumers, and as long as it is done some losses will occur. The expense must, and I think should be borne by the business as a charge upon its conduct. People with limited means, especially wage earners are subject to so many uncertainties in respect to their incomes, that they are bound to find themselves without the ready cash at times. As to buying on a strictly cash basis, it is next to impossible and little need be said to indicate the inconsistency of these two complainants in putting forward such a contention. Neither of them has purchased much coal on this basis. Both have persistently sought to obtain credit in their purchases. If they had been compelled to purchase on a strictly cash basis it is doubtful if either could have started into the business. The transactions previously discussed in this report would show that had they been obliged to

operate on such a basis several of Mr. Courtney's creditors would be hundreds of dollars better off to-day, and many of Mr. Hudson's fruitless efforts to obtain credit might not have been construed by him as the machinations of a combine. An examination of his account of last year with the Canada Coal Company shows his credit ranged from fifteen to thirty days.

Through the credit Mr. Courtney obtained last year he was able to avoid paying for a large quantity of coal, and by the sale of that coal he admittedly obtained money upon which he has continued to do business.

Early in the proceedings it became apparent from many different points of view that the question as to whether retail prices were unreasonably high would depend largely upon whether or not it was necessary for them to carry substantial reserve stocks of coal owing to the overhead and incidental expenses unnecessarily involved aggregating from \$1 to \$1.50 per ton. It was also quite evident that the determination of that matter would go far in deciding most of the questions arising in this investigation.

As already pointed out the applicants have generally followed the practice of delivering direct from the car to their customers. Other dealers do the same thing as far as it is possible. That depends upon cars on hand under load with the particular coal required for the day's delivery, and the extent of screening necessary in order to deliver the proper quality of coal.

Coal unloaded into bins requires additional handling and preparation with an additional loss from breakage. If kept on hand for a month or more the breakage is greatly increased. Moreover there is to be added a considerable expense of sheds and bins.

Realizing this important feature of the trade, a questionnaire was prepared and sent to 850 dealers in the towns and villages of the Prairie Provinces. The elevator and lumber companies who also operate retail coal business were required to furnish certain information, particularly with reference to shed accommodation and stocks of coal carried. These returns shew that in upwards of 1,200 retail coal depots, sheds are located and stocks of coal carried on hand, and not more than twenty returns shewed an absence of sheds, or sheds unused for carrying a reserve stock. All the dealers in the large cities have sheds and bins and carry considerable reserve stock, except in those few instances where the dealer carries on a business similar to that of the complainants. The quantity of stock is in the winter months usually sufficient to supply their customers for a period of from two to six weeks. During the present season, the stocks of Alberta coals have been next to nothing on account of the strike of last summer.

It is incredible that so many business men should be so lacking in their business ability and foresight as to invest so much money and to systematically add to the expense of operating their business if these things were not essential to the needs of their business.

I have come unhesitatingly to the conclusion that shed and bin accommodation, and reserve supplies of coal, are absolutely essential to a retail coal business in this country. Our weather and climatic conditions cannot be foreseen and dealers must be prepared at all times to meet the demands of the public for an ample supply of coal, or great hardship and suffering would periodically be met with.

I am of the opinion that the coal dealer who avoids carrying his fair share of the burden necessary to maintain a substantial reserve stock is avoiding a duty which he owes to the consumers which cannot be compensated to them by the small reduction he makes in his price. Rather than suggest that the business does not warrant it I would be more inclined to say that it should be a condition precedent to being permitted to engage in the business.

There are other aspects of this question which must not be lost sight of which affect the producer, and the selling agency, which should be reflected in a universal reduction of prices to the consumer. For instance, the method of deliver-

ing direct from the car to the consumer means activity in the mines producing domestic coal consumption—September to April. If the dealers were equipped with proper sheds, coal would stock up in the summer months and thus keep the mines and selling agencies engaged the year round instead of seven months of rush and five months of idleness, which would tend to modify and stabilize prices. Moreover, from September to January 1st the railways have to contend with the busy grain season and at the same time supply similar equipment for coal rush traffic in the same direction, hauling cars one way empty for both commodities. If three months of this coal traffic could be handled before the grain rush begins, and the railways freed from their burdens during that period, there should be a more favourable opportunity for considering a reduction of coal freight rates.

Very few consumers lay in their winter's supply in advance, and in fact a great many are unable to do so. Single ton purchases are by far the most numerous. A few will buy two tons or even more at a time, and equally as many are obliged to buy in less than ton lots.

The merits of this question bulks largely in the question of whether or not the Western Canada Fuel Association is a combine within the Act, which I shall deal with presently.

13. *Mr. Courtney's alleged difficulties with Rosemount coal as the special grounds for his application.*

Mr. Courtney stated in his evidence (Proceedings, p. 450): "I bought the coal (Craig furnace lump) at a good price, \$4.20 a ton when other coals were worth \$4.70 through the wholesalers. I was obliged when I was cut off to pay a premium of five cents a ton over what the other dealers were able to buy coal for, or 55 cents a ton over what I was previously paying for it. This worked a considerable hardship on me. I believe all told it cost me about \$1,500. That is my reason for making the complaint." He reiterated this at a later date.

In his evidence in chief he produced the following telegram and letter, exhibits 37 and 38:—

C. B. A. COURTNEY,
264 Spence Street,
Winnipeg, Man.

DRUMHELLER, ALTA.

Last cars left eleventh stop Forced to discontinue shipping you writing.

ROSEMOUNT COAL CO., LTD.

C. A. COURTNEY, Esq.,
264 Spence Street,
Winnipeg.

ROSEDALE STATION, ALTA.,
December 11, 1923.

DEAR SIR,—We regret that we are forced to stop shipping you any further coal and the last two cars, invoices Nos. 99 and 100, enclosed herewith are the last two shipments we shall be able to make. We are forced to discontinue by our selling agents, The Birnie Lumber Co., consequently we have been obliged to close down our mine for want of orders. This is an unfortunate affair for us but we do not think it will matter to you inasmuch as you can purchase coal elsewhere. We believe the Ideal Mine at Wayne could fill any further orders from you. The situation is brought about by the combine efforts of our selling agents and the Western Canada Operators' Association.

Wishing you every success in your new venture and trusting that we may perhaps get together next year,

Yours truly,

J. R. MILLER,
P. B.

Kindly make up statement of adjustments you require. Please pay all order bills of lading and make your adjustments on the 15 day drafts as otherwise it will interfere with our banking arrangements.

About this telegram and letter he carefully wove his story to the effect that upon receiving them it put him in a very bad way as he had made no other arrangements for coal; that he endeavoured without success to buy coal; that a few days previous to this he had received a letter from Patterson & Boorer, a wholesale firm in Edmonton, with whom at the commencement of his business operations he had some correspondence, and in this letter he was offered this same coal at \$4.75 per ton, although he had previously been paying the mine \$4.20 for it; that this made him very hostile and figuring the mine had sold him out he wrote a few hostile letters both to the mine and this firm and then stated this correspondence had been destroyed; that it seemed the mine having no orders, communicated with anyone they thought could find a market for their coal, and the president of the mine being a personal friend of Mr. Patterson naturally turned to him; that not being able to get other coal he was obliged to take it; that early in January he went to Drumheller and saw Mr. Billington, whom he stated was the president of the mine, and who was also manager of the Standard Bank at Drumheller, who said to him, "Court, there is nothing we can do; it is as much as our lives are worth to do other than we have. We wouldn't let you down if we could help it, . . . you see I have a position here which is a good one; we carry accounts of a number of the large mines in the valley, one of them is the Newcastle interests," and further stated that Billington said that if their mine continued to ship to one who was cutting prices this account would be removed from the bank, and that Billington gave no other reason for stopping shipments; that Billington further said to him, "Court, why don't you go down there and hold up the price, go ahead and sell at the same price as the other fellow."

When questioned as to their discussion about his cutting prices he said they had no particular discussion on it, they both well knew and understood that price cutting was at the bottom of the whole trouble. He further stated that about five days after the mine had discontinued shipping him direct, the shipments were continued through Patterson & Boorer until the 10th of January, when he told them to stop shipments because the coal was not good and he could then get all the coal he wanted as the market became flooded owing to mild weather. *

Mr. Billington at Drumheller testified that he had no connection with the mine, but did oversee the sales on behalf of his wife who was a shareholder in the company; that the Birnie Lumber Company of Calgary had been a selling agent for the mine but had ceased to sell their coal about the first of December, 1923, and that the reference to that company in the manager's letter (exhibit 38) and to the Western Canada Coal Operators Association was a mere subterfuge made use of to avoid telling Courtney that they would not give him any further credit as at that time he owed them a considerable sum on account, and their refusal to give further credit might make it more difficult to collect their money from him. Mr. Billington flatly contradicted all of Courtney's statements regarding cutting or maintaining prices, except that he may have said that if he sold at regular prices he might be able to pay his accounts. He swore that Courtney's sole purpose in coming to see him was to get further credit and that was the subject of their conversations. He also flatly denied Courtney's statement in reference to suggesting that accounts would be removed from the bank. He produced a judgment for some \$600 and costs their balance of account that the mining company had been obliged to sue for in an undefended action. He also produced a letter which Courtney (exhibit 141) had written him on August 20, 1924, with a view to securing coal direct from the Rosemount mine this season, which I quote herewith:—

264 SPENCE ST., WINNIPEG, MAN.,

August 20, 1924.

Mr. P. BILLINGTON,

c/o Rosemount Coal Co., Ltd.,
Rosedale, Alta.

DEAR SIR,—You will no doubt consider this an impertinence on my part in view of the unsatisfactory business relations of last year.

I have been notified of your suit and am sorry that you have taken this step as you can gain nothing when granted a writ as you will be on account of my not filing a defence. Money advanced to Mr. Brooks was from the bank and you know full well that everything would be assigned to them or we never would have got it.

The point is you want your money and I want that you should have it. You will not believe that as you no doubt think I am pretty crooked. If I had it you would get it. I started in last season absolutely on my nerve and got let down and double crossed at every turn. When I had things just going, both you, Carbon and Estevan, stopped shipping on account of the association. Just when the returns would have been going in to you regularly I had to buy coal elsewhere and pay cash with your funds. Consequently there was nothing to do but stall you fellows along and pay exorbitant prices until I found coal to take the place of the cut off supply.

Present conditions have arranged a situation under which I can make a few dollars and let you have your account in full and immediately providing you will act. I have a sale for a minimum of sixty-five (65) tons per day of 1½ inch screened lump if required, to contain not less than 70 per cent of lump that will not pass through a six-inch perforated screen and more than 500 pounds slack to the car. For this I will pay four (\$4) dollars per ton f.o.b. your mine, shipments to commence if required September 5, 1924, and continue for this season of 1924-25. You to consume advance charges at your end. Terms: sight draft to bill of lading marked to hold for arrival of shipment. Failure to accept on arrival of shipment at destination renders agreement void unless coal does not meet with specifications as above in the estimation and arbitration on which neither myself or the retailer is acting. Shipments to be made under my instructions, on receipt of such an agreement signed by the officers of your company. I will remit as advised by you six hundred (\$600) dollars in full payment of your account against me to date. To do this I am selling your coal and getting my commission in advance.

If you give this your consideration you will find that this is an opportunity for you to make a complete sale of your output with no trouble. While you may be able to get more for a few cars at the start a steady run will take you the farthest. Do not let the association worry you about selling to non-association dealers because anyone who has *money can buy coal*, and the same outfits who are doing the kicking to-day will be tickled to death to talk to some of the outlaws before long.

If interested I would be pleased to have a wire from you followed by an agreement as set out, otherwise Mr. Billington, I cannot do a thing. All the returns from Mr. Brooks' mine (if he gets going) must go to the bank to cover their loan and that is all I have in sight.

Trusting to hear from you, I am,

Yours truly,

C. A. COURTNEY.

This letter to my mind amply corroborates Mr. Billington's evidence—in fact it is in effect an admission that Mr. Billington was justified in regarding him as a crook. He states that "When I had things just going, both you, Carbon and Estevan stopped shipping on account of the association." Is this statement true so far as reflecting his own views? He admitted in his evidence that the Rosemount transaction was the only interference that he had experienced from outside sources. Then why does he add Carbon and Estevan as having stopped shipments on account of the association? He had negotiated with Mr. Patterson, of Patterson and Boorer, for their Carbon coal from a mine which is not yet in operation, and at page 2893 of the Proceedings on cross-examination he admitted the stoppage of his Souris shipments was due to his embarrassed account. One is therefore inclined to question his sincerity in his reference to the Rosemount situation. Having regard to this and to his admission (Proceedings, pp. 2907 and 2940) that anyone with the money can buy coal and to what actually transpired between him and the Rosemount

people when in January he tried to get further credit and failed, one is inclined to believe that he knew the exact situation notwithstanding the telegram and letter, exhibits 37 and 38, and preferred to suggest in this letter, (exhibit 141), that he accepted that as the real difficulty, and bolstered up this suggestion by intimating interference with his supplies on all sides, and thus adding to his difficulties as an excuse for his failure to meet his debts. On cross-examination he admitted that he did not treat Mr. Billington fairly (Proceedings, p. 2882).

Mr. Billington further testified that Courtney had given as his reasons for not paying the account that he was having difficulty in collecting his accounts, and that he had a large quantity of the coal piled up in his yard. On cross-examination Courtney admitted that he may have made such statements to Billington, and yet his evidence shows that he was selling on a purely cash basis and had no coal piled in his yard.

Mr. Billington also produced commercial reports on Mr. Courtney which were no better than one would expect. Mr. Miller, the manager of the mine, testified and corroborated to some extent the evidence of Mr. Billington. He stated that when Courtney was not paying for his coal promptly he conferred with Mr. Billington, and upon this and the unfavourable mercantile reports they decided to discontinue shipments to him and concocted and sent to him the telegram and letter referred to above.

It appears that the Birnie Lumber Company had at one time owned this mine and since then had been selling agents for it. After they had discontinued as selling agents they seemed to have learned that the mine was shipping to Courtney, and being interested in the output of other mines, feared that their name might become associated in the minds of Winnipeg customers with Courtney's transactions. They therefore communicated with the Rosemount mine regarding shipments to Courtney, but before this the mine had discontinued shipping him purely on account of his unsatisfactory credit.

The reference in his letter to the money advanced to Brooks, he says, represents his interest in the Maple Leaf mine. Upon an assignment of this interest to the bank as security he appears to have borrowed this money.

It also developed in the evidence that at the time of writing the letter (exhibit 141), he was trying to negotiate a deal with Hudson for the sale of Rosemount coal whereby he hoped to obtain some \$600 or \$700 commission in advance and with this he says he proposed to pay off the Rosemount mine judgment. Upon Courtney being recalled he was ordered to produce all correspondence in connection with this transaction, and it was only after that had been perused that the facts were developed and his misleading representations shown up.

I find the facts in this transaction are that during the spring and summer of 1923 he had been in communication with Mr. Patterson, of Patterson & Boorer of Edmonton, with a view to his handling Carbon coal from Mr. Patterson's mine when it got into operation. He was in Edmonton in August and discussed matters with Mr. Patterson, and their negotiations led into a supply of Drumheller coal. Mr. Patterson suggested Rosemount, and it was agreed that Courtney should take whatever coal the mine could spare above the orders from the Calgary selling agents, and they would share the profits between them.

Mr. Patterson gave him a letter of introduction to Mr. Billington. Courtney then went to the Rosemount mine and bought coal at \$5.25 less a wholesale commission of 50 cents less, an additional 10 cents per ton switching charge. Shipments were ordered forward commencing November 22. He concealed this arrangement from Patterson & Boorer. At the same time Courtney was carrying on a correspondence with Patterson & Boorer for a supply of this same coal when he should commence operations. On December 1st Patterson & Boorer wrote him offering the coal at \$4.70 per ton less 10 cents commission and proposing to send him a sample car. On December 3 he wrote Patterson & Boorer

saying he had got a couple of cars of Rosemount and proposed that they should also pay the 10 cents per ton switching charge, and if they would also allow him fifteen days credit they could have the business.

For some reason the mine had been induced to lower its price as from November 30 to \$4.90 less 50 cents commission and 10 cents switching. Courtney was apprised of this on December 4 and immediately wired Patterson & Boorer to disregard his letter of the previous day that the coal was not satisfactory. In the meantime there had been a discussion as to changing the screens at the mine so as to improve the preparation. Matters moved along quietly until December 12 when the telegram (exhibit 37) was sent by the mine declining further shipments and on the same date Patterson & Boorer wired Courtney that the screens had been changed and that they had secured the entire output of the mine and asked him how much he could handle on the basis of his letter of December 3. He replied that the mine already had his order for two cars per day at \$4.90 less the 60 cents discount and switching, and asked if this contract had been turned over to them. Patterson & Boorer replied that no orders were turned over to them and they could not handle it at that rate. On the same day they wrote him a letter on the matter. The situation is pretty clearly defined in this excerpt from the letter: "You went down there and told me you could not make any arrangement with them, and they gave me the same kind of information. For several weeks past they have been constantly wiring and 'phoning me endeavouring to turn over the out-put of their mine to me, and when I consent to take it on, and wire you, I find you already have a contract with them, according to your own information."

Correspondence followed and Courtney endeavours to excuse and justify his conduct, and finally on December 31 is obliged to accept the offer of Patterson & Boorer of \$4.50 net f.o.b. the mine. It will be seen that Mr. Courtney's embarrassment when on December 12 the Rosemount people discontinued their shipments was not at all of the character which he endeavoured to make us believe. His hostility could not have been due as he claimed, to the price of this coal being advanced from \$4.20 per ton to \$4.75 per ton. For all he knew then he was paying \$4.45. As already pointed out it was only in January when at Drumheller he succeeded in having it reduced to about \$4.20 on condition he paid his balance of account immediately. Moreover, it will be observed he did not pay Patterson & Boorer \$4.75 but only \$4.50, nor did he lose \$1,500 by the change. The increase in price at that time so far as he then knew was about 5 cents per ton.

It will therefore be seen that the alleged grievances which he says caused him to be a party to the application for an investigation is a tissue of falsehood, and this and his conduct throughout these transactions point quite clearly to his real character.

PRESENT AND ANTECEDENT BUSINESS METHODS OF THE COMPLAINANTS, MESSRS. HUDSON AND COURTNEY—AND OF THE CONSUMERS LEAGUE

Mr. Charles A. Courtney appears to have entered the coal business a few years ago as a salesman for a wholesale concern. During the early part of the coal season of 1923-24 he undertook to open a retail coal business in Winnipeg. To accomplish this he and Mr. L. R. Starrett proceeded to organize what they chose to call the Domestic Coal Consumers League. The League was to be composed of members who paid an entrance fee of \$4 each and were to receive coal at a substantial reduction below the going prices. Courtney says that this was all collected and retained by Starrett, who had an office down town. He also says the number of people who were induced to join was about 75 to 100. Starrett says it was about one-third of that number. No records appear to have been kept from which anything could be ascertained.

This association finally came to grief in February, 1924, when Courtney says it was practically bankrupt. He also states that there was a daily struggle between himself and Starrett to see who should get the contents of the cash drawer. It might be noted here that the coal handled by this concern was the Rosemount for which Courtney still owes a judgment of \$700 and a promissory note for \$900. Just here it might be mentioned that Courtney (Proceedings, p. 2764) was buying coal on his own account and supplying it to this League at a profit. All this coal was billed to him personally.

The iniquitous feature of this League was the absence of any value in return for the entrance fee. They made no distinction between members and non-members in the matter of price—selling to all for the same money. Starrett admitted (Proceedings, p. 3089), those who paid the \$4 got nothing for their money. It might be of interest to note that this gentleman, Starrett, is now conducting a coal business under the name of Domestic Fuels, Limited, which he organized last season. The capital stock is divided into shares of \$5 each, and he says there are about 150 shareholders to whom he says he sells coal at a reduction below the regular price to the public. A complaint was made that Starrett was not paying for his coal. One, Bray, operating a small mine shipped him a carload of coal from Alix, Alberta, in October, 1924, which he never paid for and refused to answer letters or pay any attention to drafts. He admitted that there was no reason why this coal should not have been paid for long ago, and gave as an excuse that he had overlooked it.

As already indicated, Courtney sells on a strictly cash basis and delivers practically all his coal from the car to the delivery wagons. He rents part of a coal yard, trackage and a couple of bins from Thomas W. McCollm, another retail dealer in the city.

Apart altogether from the reference made herein to Mr. Courtney's debts from the result of last season's operations, his financial statement which was produced shows a deficit of some \$800.

Alexander B. Hudson began dealing in coal spasmodically some fifteen years ago when he kept a general store in a small country town in Saskatchewan. Although he contends now that reserve stocks of coal are unnecessary, yet his first experience was on an occasion when the local dealers' reserve stocks, if any, were consumed and people were in a bad plight and he secured some coal through the railway company and prevented tragic results. He handled coal as a country merchant occasionally. About four years ago he became active in an association known as the Anti-High Cost of Living Association. The object of this association was to purchase supplies in large quantities for its members and distribute them as required. This association he says came to an end owing to internal and factional disagreements.

He then became yard manager for the Eureka Coal Company and at the close of his first season with that company it made an assignment. The following year he was a partner in the firm of Hudson and Tolton. At the end of the year Mr. Tolton appears to have withdrawn from the business. A few months later Mr. Hudson opened his present business in the fall of 1923.

It seems rather anomalous that some of the dealers whom he charges as being in a vicious combine whose chief aim was to put him out of business have befriended him on many occasions by selling him coal when he needed it and could not get it elsewhere at the time. He sells coal on a strictly cash basis and endeavours to buy on from fifteen to thirty days' credit. From the evidence furnished the commission he has not made any profits but has had difficulty in making ends meet to say the least. The utter absence of any systematic accounts or records of his business and financial transactions whereby one can definitely determine the results of his business makes it impossible to say just how unsuccessful his business has been. Moreover, after going as fully as possible into his affairs, as well as those of his co-complainant, I am unable

to say that the preparation of coal which they have delivered has been equal to that of the great number of dealers against whom they have made complaint. I am convinced that most if not all of the well established dealers furnish superior preparations and better coal. The necessary handling and screening incidental to supplying good coal and carrying of reserve stocks pretty fully accounts for the differences in prices. To do this it is not possible to deliver direct from the car. I find that not more than 30 per cent of the coal delivered to the consumers in the prairie provinces is delivered in this way. It can and generally is done when carloads are available which do not contain an excess of slack and small lump.

It would appear that one of Mr. Hudson's characteristics as a coal dealer is to religiously refrain from paying the going price of coal at the mine. He always suspects other dealers are getting a reduction and always expects to get it himself. If he fails he at least doubts the absence of a combine which is operating against him. If a wholesale dealer avoids soliciting business from him that also gives rise to suspicions. He has no conception of any method of doing business on a basis other than that of prices below all others both in buying and selling. His records show that he like his co-complainant, Mr. Courtney, has no compunction in taking just as high a margin of profit as others, if he can get it and still keep below their selling price.

In putting fuel on the market he is quite prepared without any hesitation to sell it as it may have been sold to him without any knowledge as to whether or not it is as represented. An illustration of this is seen in his buying a quantity of Connellsville coke this season and selling it as Koppers Process coke, yet he admitted he knew nothing of its preparation or whether it was Koppers Process, and excused himself by saying that it was sold to him as that.

Referring again to the statement in the evidence that dealers who generally sell coal at low prices are doing so by reason of short weights, substitution of cheap coal, or failure to pay for the coal, I may say it is not possible to systematically deliver short weights in Winnipeg, of which I shall say a word presently. The complainants have not done so. But their delays in paying for coal and the failure of Mr. Courtney to pay for a large part of his coal cost for last year, gives pretty strong support to that part of the statement.

As for the substitution of cheaper coals, I have already pointed out that a considerable amount of the coal handled by them is not of the highest quality nor is it well prepared either by themselves or by the mine.

COMBINE AS DEFINED BY THE ACT

The Combines Investigation Act lays down quite definitely the various conditions which constitute a combine which comes within its purview. As this must be kept clearly in mind it would seem expedient to quote here the interpretation clauses—section 2, subsection (a):—

(a) The expression "Combine" in this Act shall be deemed to have reference to such combines immediately hereinafter defined as have operated or are likely to operate to the detriment of or against the interest of the public, whether consumers producers or others; and limited as aforesaid, the expression as used in this Act shall be deemed to include (1) Mergers, Trusts and Monopolies so-called, and (2) the relation resulting from the purchase, lease, or other acquisition by any person of any control over or interest in the whole or part of the business of any other person, and (3) any actual or tacit contract, agreement, arrangement, or combination which has or is designed to have the effect of (i) limiting facilities for transporting, producing, manufacturing, supplying, storing or dealing; or (ii) preventing, limiting or lessening manufacture or production; or (iii) fixing a common price or a resale price, or a common rental, or a common cost of storage or transportation; or (iv) enhancing the price, rental or cost of article rental, storage or transportation; or (v) preventing or lessening competition in, or substantially controlling within any particular area or district or generally, production, manufacture, purchase, barter, sale, storage, transportation, insurance or supply; or (vi) otherwise restraining or injuring trade or commerce.

The facts then in this case must establish that some two or more of the companies, associations, firms or persons constitute a combine by reason of their having acted in some respect in concert, or have been a combine that has operated, or is likely to operate to the detriment of or against the interest of the public by enhancing the price of coal to the consumers beyond a reasonable and fair price, or the complaint fails.

It will readily be seen that the Act recognizes two distinct types of combine—one as legal, and the other illegal. The determining factor as to which category the conduct of persons belongs depends whether or not that conduct has operated or is likely to operate to the detriment of or against the interest of the public. In this case, has it done so by reason of the prices which the public have been obliged to pay for coal? Or, putting the proposition in another way—Has the conduct of any combination of persons been such that retail prices for coal have been charged in Winnipeg, that are not justified by reasonably necessary service rendered?

Having regard to the facts that I have found, I cannot find that any such combine has been established. I think, however, that I should discuss the more important findings in detail, which I now proceed to do.

As previously mentioned, had Mr. Taylor avoided selling Souris coal to Mr. Hudson this year purely on the ground of price cutting, would that have brought him within the meaning of a combine as defined by the Act? in the first place, Mr. Taylor emphatically denied that any person or association interfered with him in any way as to whom he should sell. Mr. Hamilton who was regarded by Hudson as being very friendly to him corroborated Taylor's evidence in this regard. And there was not a tittle of evidence to suggest any fact contrary to Mr. Taylor's statements. From all I could learn he could sell the Souris coal for the Souris Coal Distributors, Limited, to whomsoever he might choose, just as much so as if it was his property. There was no obligation upon him to sell to Hudson or to refrain from doing so. It was all left to his discretion. He stated emphatically that he would sell to Hudson any day for cash in advance, and I cannot blame him for demanding cash in view of his experience of the previous year in collecting Mr. Hudson's account.

Quite true, Hudson would have had to pay cash in advance and the going price, neither of which he was prepared to do. And it is also quite true that by an agreement between the members of this selling syndicate whereby Double screened lump was to be sold f.o.b. the mine at \$2.75, Single screened at \$2.25, and Run of Mine at \$2.10, but I cannot find that these prices are unreasonably high. The selling commission to the syndicate of 18 cents per ton for which the syndicate also became responsible for all accounts, cannot be said to be unreasonable. None of these things constitutes a combine as defined by the Act.

With regard to my finding of fact in connection with the contract that Hudson made with the Canada Coal Company and the Western Fuel Company, for the 3,000 tons of Craig coal, I am bound to say that they are not very satisfactory. And in coming to the conclusion that these two selling agencies and the Whitlock Lumber Company are not a combine within the meaning of the Act, I do so with some hesitation. These three selling agencies obtained the coal at the mine for \$4 per ton and the retail dealer paid \$4.70 for it. Commissions to these three agencies cannot be justified. But it is the producer that suffers rather than the public. \$4.70 for that preparation and grade of coal seems to have been the going price at that time. Therefore it can scarcely be said that the price was so unduly enhanced as to operate to the detriment or against the interest of the public.

Dealing with the failure to complete the contract, there may have been a legal wrong committed. If so Mr. Hudson would have his remedy. But did the action of the Western Fuel Company in refusing to continue shipments

pursuant to contract bring that company within the Act? So far as I have been able to learn Mr. Merkley himself, as manager of that firm, did this on his own account. It was not brought about by any combination of actions by and between different persons. The Canada Coal Company, Limited, seems rather to have preferred that the shipments should continue. No one in fact appears to have had anything whatever to do with it but Mr. Merkley himself in the exercise of his own discretion or choice. How can the conduct of one person so acting constitute a combine? However unjust or unlawful his conduct may have been, it does not constitute a combine. That being so I need not consider the matter further. But in any event, the price was not thereby unreasonably enhanced; and I have also come to the conclusion that Mr. Merkley had some justification from Hudson's slow payment of drafts.

As already stated, in regard to the interference of Mr. Hudson's supply of Excelsior coal by Messrs. Halliday, Robinson and Naylor, they combined or acted together to prevent him from obtaining a supply of that coal. But that does not bring them within the Act unless they did so to the detriment of or against the interest of the public. Again we are obliged to come back to the point of determining the question on this ground. Unless it results in operating or being likely to operate to the detriment of or against the interest of the public, people may act in concert and go as far as they like in meeting competition, even if in doing so it means the maintaining of prices so long as they are not unreasonable or unfair.

Hudson in his efforts to compete for trade in Excelsior coal proceeded to undersell the dealers who were handling it. If this is done surely those dealers have the right to say to the producer from whom they buy "If you sell to Hudson we will not buy your coal," The producer is merely called on to choose which of two customers he prefers to deal with since he cannot have both. Even the fact that in doing this Halliday and Robinson intended to thereby maintain their present prices makes it no worse, unless it is shown that such prices are so unreasonable or unfair as to be detrimental to the interest of the public. I cannot find their prices were, and their conduct therefore does not bring them within the Act. Mr. Hudson had a perfect right to obtain Excelsior coal and successfully compete for the trade in that coal by underselling other dealers if he could, even to the absolute destruction of their business. So likewise other dealers may carry their lawful activities against him to the same end.

With reference to the alleged unnecessary cost to the extent of from \$300,000 to \$500,000 per year to the consumers of coal, I have already intimated that this was unsupported by the evidence. The costs of operation are not unreasonably high or unfair having regard to the obligations which retail coal dealers assume, and which they ought to assume. That being so prices are not high enough to operate to the detriment of the public.

Coal is a vital necessity to the populace of this country. Very few consumers are experts either as to burning the coal or judging of its merits. We are all inclined to think our coal bills bulk too high in our cost of living expenses, and that there must be something wrong when so many tons are consumed. It is one of the commodities that consumers cannot judge at sight. The urgent need of the best results generally means a need for the best and most suitable kind and preparation. It is in fact self evident that the public may be easily deceived and gulled in the purchase of coal. The city council have recognized this and have enacted by-laws which go far to the protection of the consumer, particularly as to weights. Inspectors are maintained who daily check up delivery wagons on the streets. These are weighed over the scales of other coal yards or the city scales and if there is a shortage the owner of the load is subject to being fined.

I perused the market superintendent's record of these inspections for several years past and found that on the whole there are more loads tested that are

overweight than there are underweight. And yet there are occasional discrepancies as high as two or three hundred pounds, either overweight or underweight. The complainants' records have been good in this respect.

The by-laws also prescribe sizes for lump coal—one grade only—to contain 40 per cent lump over six inches and not more than 10 per cent less than one inch. Dealers are required to file analyses of the coals they handle; but the practice is to file a rather low grade analysis, so as to be sure that tests taken from their deliveries will meet the analysis filed.

It seems quite impossible that a practice of delivering short weights could be successfully followed, but I am not so sure that, having filed a low grade analysis, a dealer could not successfully substitute inferior grades of coal, particularly for Drumheller district coals where there appears to be considerable variations in grades and also in preparations.

As already indicated, I am convinced that the work and expense devoted to the preparation of coal by the retail dealers is not unnecessary. It may be that the public could very well use more slack and the small lump coal—but they don't appear to want it. The demand is for large clean lump coal, and the dealers are obliged to cater to the demand.

It should be noted that the Alberta mines have until this season produced generally several preparations of coal. These have not been uniform either as to the size or kind of screen used. These preparations have been known as Double screened lump, Single screened lump, Furnace lump, Stove and Nut sizes. This year, or rather since the strike, it is said that the furnace lump has been discontinued, but from the evidence it would appear that the preparation commonly called furnace lump is still being produced and is now called Standard lump or sometimes Single screened lump, and has been reduced only fifteen cents per ton below the price for practically the same preparation of last year.

There still remain to be considered the Retail Coal Dealers Association of Winnipeg and the Western Canada Fuel Association, as to whether or not their activities have been such as to constitute either of them a combine. I have not been able to discover that either of these associations has been a party to any of the activities which I have already dealt with. I shall now consider the activities of each.

THE RETAIL COAL DEALERS ASSOCIATION OF WINNIPEG

It was stated in evidence that this association first came into existence about 1916 or 1917. At the suggestion of the then fuel controller for Canada several of the dealers were got together and the association formed for the purpose of enabling the fuel controller to deal with the traders more efficiently and economically. He then fixed the prices and a list was issued.

The association functioned for a time with Mr. A. E. Burns as secretary, who operated it as a Credit Exchange through the Canadian Credit Men's Trust Association, with which he was then associated.

About 1920 Mr. Jex Long became secretary and the association functioned somewhat spasmodically for a couple of years, and to all intents and purposes came to an end after his death in 1921 or 1922. It was revived at a meeting in Mr. Burns' office in August, 1923, and Mr. Burns appointed secretary. It began with a paid up membership of 37, or at least the membership list (exhibit 52) filed by Mr. Burns shows that number to have been in good standing in June, 1924.

According to the records there are no less than 117 licensed retail dealers in the City of Winnipeg, which seems a large number for a city of its size. In addition there is a large number of unlicensed persons who operate by securing orders and passing them over to licensed dealers. The total number engaged in the retail fuel business was variously estimated by witnesses at between 150

and 200. It therefore appears that probably less than 35 per cent of the licensed retail dealers of Winnipeg are members of any association.

This association met at regular intervals and discussed matters of interest to the coal trade and interchanged views as to various things incidental to the general betterment of the business. Attention was given to the questions of weight shortages from the Drumheller field, regulation of dealers and licenses to them—inspection—city by-laws and prices.

The only one of these topics of discussion which might fall within the scope of the Act would be that concerning the fixing of prices. A price list (exhibit 55) was issued from time to time and mailed to all dealers in Winnipeg whether members of the association or not. How the figures in this list were arrived at was not made very clear.

Since the occasion above referred to when the fuel controller fixed the retail prices of coals the only revision has been a downward one. Various dealers would submit statements of overhead to the secretary who then prepared a price list. This was discussed at a general meeting, and then the secretary would be instructed to communicate with other dealers, and if the prices listed were considered reasonable and fair he was to issue the list. Of course, the whole list was based on the prices f.o.b. the mine.

No penalty was attached for breach by any member of the rules of the association as to selling prices or anything else. No evidence was elicited as to any concerted agreement to maintain the prices given on the list and in point of fact these prices were not strictly observed. Each dealer apparently considered himself free to cut these prices and did so when the exigencies of his business or competition appeared to him to require such a course.

One of the complaints of Hudson was that several meetings of this association had for their chief topic a discussion of the question as to how he might be put out of business. Witnesses were called who had been alleged by Hudson to have made such statements to him, but they flatly denied them. Many reputable business men whose standing and worth in the community should not lightly be challenged, swore that neither of the applicants nor their methods of business had ever been the subject of any formal discussion or concerted action at any of these meetings and there is nothing in the minutes to contradict their assertions. True, they said, Hudson had been discussed informally or privately by individuals before the meetings opened on many occasions, and I gather from the evidence that these discussions seemed to turn to the question of how he could carry on and how long his business could last with his present methods. Courtney's name does not seem to have been mentioned. I note the fact that all the established dealers who were called seemed amused at any suggestion of Hudson's or Courtney's methods of business revolutionizing the coal trade, or the experience of other dealers being discounted who had been in the business for twenty or thirty years. The most unsatisfactory part of the evidence in respect to prices was that given by Mr. Burns, the secretary. He was inclined to deny the fixing of prices as part of the business of the association and yet when he issued a circular letter in September, 1924, for the purpose of organizing the activities of the association for this season this circular contained only two paragraphs referring to the purposes and activities of the association, which read as follows:—

It was generally admitted last year, even with the mild winter and our market slushed with coal, that the price was pretty well maintained, and in conversation with a number of dealers, I have met no one who did not favour the continuance of the association, all having expressed a desire to help in their own small way.

Indications are that we can secure a reasonable price this year and also reserve the business for the legitimate trade, but we wish each dealer to demonstrate that he is behind us."

I am therefore of the opinion that the discussion and fixing of prices is one of the main purposes of this association, but as already indicated, until that is carried to the point that prices are unreasonable or unfair, no fault can be found in that direction. I have already expressed my view that the prices charged by the retail dealers, or fixed by the association can not be said to be unreasonable or unfair having regard to all the circumstances. And realizing the efficacy of the Combines Investigation Act, and its protection being so easily accessible to rich and poor alike, one can rest quite content as to what may happen in the future.

WESTERN CANADA FUEL ASSOCIATION

This organization came into existence at a meeting of a number of wholesale and retail dealers and mine operators of Manitoba, Saskatchewan and Alberta, held in Saskatoon on April 5, 6, 7 and 8, 1921. The meeting was called at the instance of the Government of Alberta by Mr. Howard Stutchbury, its Trade Commissioner, who with Mr. Thomas Molloy, Labor Commissioner of Saskatchewan, and Mr. J. MacDonald, Industrial Commissioner of Manitoba, attended the meeting and strongly advocated the formation of the association.

In addition to the prominent public officials already named there were in attendance Dr. Allen, of the University of Alberta; M. L. Hyde, Esquire, Combustion Engineer of the Government of Alberta; J. T. Stirling, Esquire, Chief Inspector of Mines, Alberta; J. Wardrope, Esquire, Chief of the Natural Resources Department of the Canadian National Railways; the Hon. W. M. Martin, then Premier of Saskatchewan; and not to be overlooked, the petitioner, C. A. Courtney; all of whom took an active part in the work of launching the organization.

It began under good auspices, and aimed in a proper way to direct its energies to good and useful purposes.

The aims and objects of the association are fully set forth in the constitution which is printed at pages 7 and 8 of this exhibit, which are reproduced herewith:—

CONSTITUTION

DECLARATION OF PURPOSE

We realize the necessity of the retail coal dealers to every community, and we are interested in the promotion of the general welfare and the perpetuation of the retail coal business.

We recognize the right of every person, partnership or corporation to establish and maintain as many retail yards as he, they, or it may see fit.

We recognize the right of the mine owner, wholesaler and shipper to sell coal in whatever market, to whatever purchaser, and at what price they may see fit.

We also recognize the disastrous consequences which result to the legitimate retail coal dealer from direct competition with wholesalers and operators, and we appreciate the importance to the retail dealer of accurate information as to the nature and extent of such competition where any exists.

Recognizing and appreciating the advantages of co-operation in securing and disseminating any and all proper information for our mutual convenience, benefit or protection, we have organized this Association, and have adopted the following articles for the government of our affairs:—

ARTICLE 2—THE OBJECT

The object of this association is and shall be to secure and disseminate to its members any and all legal and proper information which may be of interest or value to any member or members thereof in his or their coal business.

ARTICLE 3—LIMITATIONS AND RESTRICTIONS

Section 1.—No rules, regulations or by-laws shall be adopted by the association in any manner stifling competition, limiting production, restraining trade, regulating prices or pooling profits

Section 2.—No coercive measures of any kind shall be practised or adopted toward any retailer or wholesaler either to induce him to join the association or to buy or refrain from buying from any operator or wholesaler. Nor shall any discriminatory practices on the part of this association be used, or allowed against any retailer for

the reason that he may not be a member of the association, or to induce or persuade him to become a member.

Section 3.—No promises or agreements of any kind shall be requisite to membership in this association, nor shall any penalties be imposed upon its members for any cause whatsoever except that any member who shall habitually fail to meet his engagements with the wholesalers or operators, or shall so conduct himself as to bring reproach upon the organization, and shall be reported by any member of this association or otherwise to the secretary, shall be cited to appear before the Board of Directors, and shall he fail to satisfy the Board of Directors, he shall no longer be considered a member of this organization and a participant in its benefits.

On their face, these aims and objects are entirely unobjectionable if not indeed laudable, and so long as they are carried into effect bona fide they are pretty sure to serve good and useful purposes to the members of the association, in particular, and to the community in general. On the other hand, it is a very easy matter to make high sounding principles, and avowed good purposes a mere cloak for mischievous conduct.

Its activities have been directed chiefly from Winnipeg which has been the place of residence of the secretary since its inception. The first gentleman to hold this office was H. C. Ritchie, Esquire, now manager in Winnipeg of the City Coal Company. He was succeeded in 1923 by the present incumbent, Mr. W. H. Morrison.

The commission had access to all the recorded proceedings of this association, including the minutes of annual general meetings, directors' meetings, correspondence and reports, and a careful perusal of all these did not reveal anything that might be considered unlawful or objectionable, except as herein-after specifically referred to. It might be argued of course that persons engaged in the pursuit of an unlawful purpose would take good care that no legible record of such activities should remain in existence. Having in view however the assertion of the petitioner, Mr. Hudson, that he had been told by the witness, Harris, a few days after the close of its annual convention in Brandon in August, 1924, that means of exterminating him as a business factor, had formed the chief subject considered by the convention, witnesses who had been in attendance were subjected to searching cross-examination.

A mass of correspondence was filed by the witness, W. H. Morrison, secretary of the association, as exhibit 70. A careful analysis of this exhibit, which consists of upwards of five thousand letters, copies of letters and telegrams, shows that it may be divided under three heads:—

I. Correspondence of routine character—dealing with dues, meetings, applications for membership, etc.

II. A large volume of correspondence dealing with the admittedly vexed question of short-weight shipments from the Drumheller field.

III. Correspondence passing between the secretary members of the association, and non-members and operators concerning the question of shipments to dealers who are regarded as not being legitimate dealers—commonly called "Snowbirds."

The association regards certain dealers as legitimate, which are those who are equipped with sheds for housing a stock of coal, and who are engaged permanently in the business. Admittedly the chief activities of the association during the past two years have been directed towards confining the retail coal business to these so-called legitimate dealers and preventing dealers, not regarded as legitimate, commonly called "Snowbirds" obtaining a supply of coal. This has constituted the most difficult problem in this investigation.

The so-called "Snowbirds" are a class of dealers who secure a place to operate at a low rental, and purchase coal and wood and deliver direct from the cars to their customers, hiring out the cartage. In order to introduce themselves to the public they advertise and sell coal below the going prices for cash and thus become a real menace to the established dealer with his permanent investment. It generally happens that at the close of the season they

owe considerable money to those who have sold and shipped coal or wood to them, and more often than not these gentlemen then disappear, and the accounts standing against them are uncollectable. Sometimes these "Snowbird" dealers open a wholesale business which ends the same way. During the progress of this investigation complaints were received from a man who apparently had opened a small mine near Drumheller and was endeavouring to earn a living by producing and shipping coal in a small way. It is worth while reading the evidence of James Gibson (Proceedings, p. 2956 *et seq.*), who had received three cars of coal during August and October and which he had not paid for at the time of giving his evidence (January 28, 1925), and for which he could give no reasonable excuse although he had long since disposed of the coal and collected the money. I have already referred to the car of this coal purchased by Mr. L. H. Starrett, of the Domestic Coals, Limited.

Another illustration of this type of dealer may be seen in a business that was commenced shortly prior to the opening of this investigation. A Mr. C. G. Cruikshanks organized the Mutual Coal Association selling membership therein for \$2. It was advertised as a "coal pool," and not a member of a combine and proposed to sell Drumheller coal at \$11 per ton to its members.

Not having any yards or equipment he was unable to secure a dealer's license from the city of Winnipeg, and he merely passed his orders over to Hudson who made the deliveries exactly the same as his own orders, collected for them and is supposed to allow Cruikshanks a commission of 45 cents per ton on all his orders.

Mr. Cruikshanks was unable to state the amount he had collected on membership fees, as he kept no record. He apparently soon reached the limit of his collections, and he then proceeded to sell to everyone who would buy at the same price, \$11.35, not \$11 as advertised, regardless of whether they were subscribers or not. In a few cases he was obliged to refund the \$2 subscription.

It developed in the evidence that in some small places the regularly equipped dealers have refrained from carrying a stock of coal because the "Snowbird" dealers having no investment and little expense had previously undersold them and left them with stocks of coal on hand at the close of the season.

Having regard to these abuses which have been a real menace to the coal trade and a loss to producers for many years, one can scarcely find fault with the efforts of the association or others to suppress such activities. The small gain to those who happen to buy at the reduced price, is more than offset by the probable failure to obtain well prepared coal, and the absence of these dealers carrying their fair share of the burden of necessary reserve supplies together with the injury they inflict upon bona fide dealers with large investments.

But let us suppose that the Western Canada Fuel Association achieves its aims in finally eliminating the so-called illegitimate dealer. We immediately find ourselves facing a new problem—What could be more conducive to the dealers, particularly in many towns and villages in these provinces, getting together and raising the price of coal to suit their desires for profit, or deciding not to carry the burden of reserve stocks of coal? However, we need only consider the foregoing supposition for the purpose of testing the present activities of this association, viewed in the light of present conditions. Upon these grounds I have come to the conclusion that, in its activities in endeavouring to limit or prevent this unfair competition it has not operated to the detriment of or against the best interests of the public, and I feel the future can and will be amply safeguarded by this Act.

All of which is respectfully submitted,

D. CAMPBELL,
Commissioner.

APPENDIX A

Exhibit No. 37

CANADIAN NATIONAL TELEGRAM

DRUMHELLER, ALTA., December 12, 1923.
5.45 p.m.

C. B. A. BUURTNEY,*
264 Spence St.,
Winnipeg, Man.

Last cars left eleventh stop forced to discontinue shipping you writing.

ROSEMOUNT COAL CO., LTD.

Exhibit No. 38

ROSEMOUNT COAL COMPANY, LTD.,

J. R. Miller, Manager.

ROSEDALE STATION, ALTA., December 11, 1923.

C. A. COURTNEY, Esq.,
264 Spence Street,
Winnipeg, Man.

DEAR SIR,—We regret that we are forced to stop shipping you any further coal and the last two cars, invoices Nos. 99 and 100, enclosed herewith are the last two shipments we shall be able to make. We are forced to discontinue by our selling agents, The Burnue** Lumber Co., consequently we have been obliged to close down our mine for want of orders. This is an unfortunate affair for us but we do not think it will matter to you inasmuch as you can purchase coal elsewhere. We believe the Ideal Mine at Wayne could fill any further orders from you. The situation is brought about by the combined efforts of our selling agents and the Western Canada Coal Operators' Association.

Wishing you every success in your new venture and trusting that we may perhaps get together next year.

Yours truly,

(Sgd.) J. R. MILLER.

Kindly make up statement of adjustments you require. Please pay all order bills of lading and make your adjustments on the 15-day drafts as otherwise it will interfere with our banking arrangements.

*"Courtney" is meant.

** Presumably "Birnle" is meant.

APPENDIX B*Exhibit No. 3*

WINNIPEG, December 17, 1923.

Messrs HUDSON & Co.,
Erin Street, Winnipeg.

We undertake to supply Mr. Hudson with the following:—

Two cars weekly Hy-Grade Lump at \$5.25 ton at mine.

Four cars weekly Hy-Grade Furnace Lump at \$4.70 at mine.

and Mr. Hudson agrees to accept delivery of same on arrival, during season, and to pay for what cars have been delivered, every Wednesday and Saturday.

Coal to be same as shipped to date.

CANADA COAL COMPANY, LTD.,

Per (Sgd.) H. H. HARRIS.

HB-2-2-65-

Government
Publications

HD

Canada. Dept. of Labour

9554

Combines investigation act

C23W52

1925

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